

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**RSA No.709 of 2010 (O&M)
Date of decision:05.08.2016**

Sheetal ... Appellant
Vs.

Rohit and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Ms. Loveleen Dhaliwal, Advocate
for the appellant.

Mr. Sandeep Goyat, Advocate
for the respondents.

AMIT RAWAL J. (Oral)

Appellant-plaintiff is aggrieved of the dismissal of the suit for recovery of Ishtridhan, i.e.,dowry items and gifts allegedly given to her at the time of her marriage as per list prescribed in Schedule III & IV valued at ₹4,63,520/- and in the alternative, value thereof on the premise that her marriage was solemnized with defendant No.1 on 29.05.2001 at Hansi, District Hissar.

It is the case of the appellant/plaintiff that behaviour and conduct of the defendants and other members of their family was reprehensive, barbaric and vicious towards the plaintiff and in this regard, a criminal complaint under Sections 498-A/406/312/313/34 IPC was filed and pending for adjudication and the father of the plaintiff spent a huge money amounting to Rs.9,38,065/- and the articles as mentioned in Schedule-I were recovered during the proceedings of the aforesaid criminal case and given

on superdari to the plaintiff as per Schedule-II. However, some of the items listed in Schedule-III were malafidely claimed by defendant No.1 pending disposal of the claim by the Civil Court. The items as listed in Schedule-IV were not recovered by the police from the defendants as they malafidely retained them and did not submit the same to the police. The plaintiff requested the defendants to return the aforesaid dowry articles on 17.11.2002 but they refused to do so, therefore, the suit had been filed.

Ms. Loveleen Dhaliwal, learned counsel appearing on behalf of the appellant-plaintiff submits that both the Courts below have not noticed the factum of registration of the criminal case and recovery of the articles as per Schedule I and II. Even the police of authorised area was able to recover the articles including the car, much less, statement has not been proved on record, yet the Courts below have declined the relief and thus, urges this Court for setting aside the judgments and decrees of the Courts below.

She further submits that the purchase of the jewellery was three days before the marriage, therefore, the presumption has to be drawn that it was entrusted to the husband and not to be used by the plaintiff. With regard to the purchase of the car, the receipt is in the name of maternal uncle of the lady, though the certificate is in the name of the boy. The irresistible conclusion/presumption is that the car was purchased by the plaintiff.

Mr. Sandeep Goyat, learned counsel appearing on behalf of the respondents submits that plaintiff has miserably failed to prove the articles as per list prescribed in Schedule III and IV, therefore, the Court below was left with no other option but dismissed the suit and thus, urges this Court for affirming the findings rendered by the Courts below.

I have heard learned counsel for the parties and appraised the judgments and decrees of the Courts below and of the view that the plaintiff has failed to discharge the onus as enshrined under Section 101 of the Indian Evidence Act. All the receipts and the documents are self-serving and are in the name of the respondent. The question of entrustment has not been proved. Once there are photographs of the marriage and entrustment of the articles except of car, how could not the plaintiff take the photographs of the entrustment of the goods sought to be recovered. Even the sale certificate (Ex.P11) is in the name of Rohit, the boy and Ex.P12 is also in the name of Rohit, therefore, in my view, filing of the suit is an act of greed and nothing beyond that. Both the Courts below have dismissed the suit by noticing the fact that the plaintiff has miserably failed to prove the entrustment of the articles mentioned in Schedule III and IV, as noticed above.

For the foregoing reasons, I do not find any illegality and perversity in the judgments and decrees of the Courts below, much less no substantial question of law arises for determination by this Court. No case for interference is made out.

Appeal stands dismissed.

(AMIT RAWAL)
JUDGE

August 05, 2016
savita/ramesh