

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

RESERVED ON : 1st DECEMBER, 2015

DECIDED ON : 14th JANUARY, 2016

+ CRL.REV.P.727/2014 & CRL.M.A.No.18492/2014

VIPUL KUMAR ROHILLA & ORS. Petitioners

Through : Mr.M.S.Rohilla, Advocate.

versus

THE STATE (NCT OF DELHI) & ANR. Respondents

Through : Mr.Amit Ahlawat, APP.
Ms.Manika Tripathi Pandey,
Advocate with Mr.Ashutosh
Kaushik, Advocate for R2.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J.

1. Present revision petition has been preferred by the petitioners under Section 397/401 read with Section 482 Cr.P.C. to challenge the legality and correctness of a judgment dated 29.09.2014 of learned Addl. Sessions Judge in Crl.A.94/2013. The petition is contested by the respondent No.2.

2. I have heard the learned counsel for the parties and have examined the file. The petitioners are facing trial in case FIR No.138/2002

registered under Sections 498A/406/34 IPC on respondent No.2's complaint. Certain dowry articles recovered during investigation were seized vide seizure memo (Annexure 'P2') Ex.PW-3/A on 27.05.2002. These articles were released on superdari to the respondent No.2 with the condition to produce as and when required by the Court. When the case was fixed for recording complainant's statement, the petitioners urged the Court to direct her to produce the said articles. The Trial Court vide order dated 19.08.2013 directed her to bring the entire dowry articles. On 16.09.2013, the complainant did not produce the dowry articles and moved an application for taking the photographs on record. She expressed inability to produce these articles due to transportation expenses. She was again directed to produce the articles vide order dated 16.09.2013. The order was challenged by the complainant in Crl.A. 94/2013 where the appellate Court asked the Investigating Officer to take photographs of the articles in the presence of the petitioners. The matter was remanded by this Court in a revision petition No.727/2013 filed by the petitioners against the said order. Again, by the impugned judgment dated 29.09.2014 the Appellate Court declined to compel the complainant to produce these articles.

3. Of course, complainant was duty bound to produce the dowry articles released on superdari as and when directed by the Trial Court. Since the Trial Court had asked the complainant to produce these articles, she was expected to produce it in the Court. On that score, the order of the learned Metropolitan Magistrate can't be faulted.

4. The petitioners have, however, not given any reasons for compelling the complainant to produce all these dowry articles at the time of her examination before the Court. Learned Addl. Public Prosecutor did not insist for the production of these articles at the time of recording complainant's statement before the Trial Court. It has come on record that these house-hold articles of insignificant value were recovered by the Investigating Agency in the presence of the petitioners from the matrimonial home way back in 2002 vide seizure memo dated 27.05.2002 (Annexure P3). The petitioners have claimed ownership of these articles. The ownership of these articles has yet not been decided. The Trial Court was not bound to order production of the dowry articles on the mere asking of the petitioners. The petitioners were at liberty to urge the Trial Court to take adverse view for non-production of case property at the time of final disposal of the case. Apparently, at the time of examination of the complainant, the petitioners could not have forced the State or the

complainant to produce all these articles which were recovered in their presence and only ownership of which was in dispute. For determination of the ownership, production of the dowry articles before the Court was not required. It appears that production of these dowry articles has been sought only to harass the complainant to transport these house-hold articles from her residence to the Court.

5. I find no merit in the present petition. It is, however, made clear that if the complainant is asked by the State or Court for some reasons to produce these articles during trial, its transportation costs shall be borne by State / Court respectively.

6. The revision petition is disposed of in the above terms. Pending application also stands disposed of. Trial Court record (if any) be sent back forthwith with the copy of the order.

(S.P.GARG)
JUDGE

JANUARY 14, 2016 / *tr*