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

+ CRL.L.P. 596/2016 & CrI.M.A. Nos.17517-20/2016

MS KALAWATI PARSHAD

..... Petitioner

Through: Mr. J.M. Kalia and Ms. Bhawana
Garg, Adv.

versus

DHARAM PAL & ORS

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
17.11.2016

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1. The petitioner has preferred the present petition to seek leave to appeal against the judgment dated 29.07.2016 passed by the learned MM (West), Tis Hazari Courts in CC No.1445/1/06.12.08. By the impugned judgment, the said complaint preferred by the petitioner against the respondent/ accused has been dismissed and the accused acquitted.

2. The case of the complainant in brief as taken note of by the Trial Court is that the complainant and the accused Dharampal came close to each other while they were working at AIIMS. According to the petitioner, they decided to get married despite coming from different religions. The accused Dharampal induced the complainant to purchase House No.WZ 263/C, Tilak

Vihar, Tilak Nagar, Delhi for setting up their matrimonial home. According to the complainant, the entire amount for purchase of the house amounting to Rs.1.45 lacs was arranged by her. The possession of the house was kept by the accused for the purpose of renovation of the premises. According to the complainant, the accused took amounts on several occasions from the complainant for renovating the house; purchase of household articles to be used by the couple post marriage; for treatment of the mother of the accused at Gangaram Hospital etc.

3. The complainant claims that the accused asked her to transfer the said flat in his favour, which she did. Thereafter, the accused asked the complainant to take a loan of Rs.73,000/- from JK Finlease Pvt. Ltd., which she took. Even this amount was taken by the accused from the complainant. The complainant claimed that on 29.12.1999, the accused persons entered into the said house and threw her out at gun point. They also obtained signatures of the complainant on blank papers. The valuable articles purchased by the complainant at her matrimonial home were retained by them. The complainant was threatened with dire consequences.

4. After recording of pre-summoning evidence, arguments on summoning were heard. The complainant examined herself only in the pre charge evidence. Thereafter, the pre charge evidence was closed and the accused persons were charged for offences under Section 420/448/452/384 IPC on 19.09.2011. In her post charge evidence, the complainant did not examine any other witness and no further cross examination was conducted. The case of the complainant was put to the accused under Section 281 read with Section 313 Cr PC. They pleaded innocence and false implication.

Though initially the accused stated that they would lead evidence, subsequently they stated that they do not wish to lead defence evidence.

5. The Trial Court while acquitting the accused has marshalled the evidence and came to the conclusion that the petitioner/ complainant could not establish the charge beyond reasonable doubt. She failed to tell the exact date when she was married to the accused in the presence of his friends. No person present at the time of the marriage was examined by the complainant. Thus, the marriage between the complainant and the accused remained unsubstantiated. The exact dates when the financial assistance was allegedly provided was also not disclosed by the complainant. No witness to financial assistance being provided by the petitioner to the accused was produced. In relation to the household articles claimed to have been purchased by the complainant for her residence, she could not produce any bills of purchase except in respect of a gold chain. The complainant admitted in her cross examination that she knew the accused since 1995 and the said bill of purchase was dated 15.11.1990 i.e. much prior to her alleged marriage with the accused. Even in relation to the monies advanced for treatment of the mother of the accused, the testimony of the complainant was found to be weak. She claimed that the mother of the accused had been treated at Gangaram Hospital, whereas the discharge summary produced (Mark-X) was from Ram Manohar Lohia Hospital. In her cross examination, she admitted that the mother of the accused was treated at Ram Manohar Lohia Hospital. Thus, a doubt was created with regard to her testimony.

6. Her testimony with regard to advancement of Rs.50,000/- for purchase of household articles such as TV, Coolers, Scooter, Bed etc. was

found to be doubtful in her cross examination. During her cross examination, she stated that Rs.14,000/- was given to the shopkeeper Pooja Electronics for purchase of TV. However, she was confronted with a copy of the bill of Pooja Electronics (Mark X-2), wherein one colour TV was shown to have been sold was financed by Pearl Financing, and the same was paid in cash down payment and the rest of the amount of Rs.11,000/- was paid in 12 instalments of Rs.1120/- each. The aforesaid also created a doubt in the story of the complainant.

7. So far as the transfer of House No. WZ 263/C, Tilak Vihar, Tilak Nagar, Delhi is concerned, the complainant during her cross examination stated that she had executed the documents pertaining to transfer of the said property in favour of the accused in the year 1999 at the office of the Sub-Registrar, Janakpuri and she had gone to the said office for execution of the documents out of her own free will. There was no evidence led with regard to the financial assistance claimed to have been provided by the complainant to the accused. There was no evidence with regard to the criminal trespass in the aforesaid house by the accused persons on 21.12.1999.

8. The submission of learned counsel for the petitioner is that the Trial Court has ignored the evidence led by the complainant. He had read the examination in chief of the complainant. He submits that though the exact dates of marriage and advancement of monies have not been disclosed, the months in which the monies were advanced have been stated by the complainant in her testimony.

9. In the present case, there was no independent evidence led by the complainant. It is a case of one persons word against the others. As noticed

above, there were discrepancies found in the statement of the complainant on several aspects, which emerged during her cross examination. In these circumstances, on a perusal of the impugned judgment and the testimony of the complainant, it cannot be said that the charge against the accused had been proved beyond all reasonable doubts.

10. I find no reason to interfere with the impugned judgment. Consequently, no purpose would be served in issuing notice in this petition. Dismissed.

VIPIN SANGHI, J

NOVEMBER 17, 2016

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