

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-AS-188-2015 (O&M)
Date of Decision:- 09.03.2017

Anita

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the petitioner.

RITU BAHRI, J. (Oral)

CRM-40619-2015

For the reasons mentioned therein, the application is allowed, the delay of 94 days in filing the appeal is hereby condoned.

CRM-AS-188-2015

Present appeal is against order dated 07.07.2016, passed by learned Additional Sessions Judge (I), Palwal, whereby appeal filed by accused-respondent Nos.2 and 3 against the judgment of conviction and order of sentence dated 15.10.2013, passed by SDJM, Hodal, has been allowed and they have been acquitted by extending the benefit of doubt.

Briefly, the facts of the case are that, Anita daughter of Mohan Singh, had made an application under Section 156(3) Cr.P.C. and thereafter the FIR was registered. The allegations were that she (Anita) had solemnized with

Winder (respondent No.2) on 30.04.2006, as per Hindu Ritual and

Ceremonies. Her father has spent sufficient amount on the marriage. Thereafter, she came to know that the accused was having no house or plot and she was kept in a departmental quarter. The accused persons have started to abuse, harass, taunt, ill-treat, beaten on account of demand of dowry in the shape of ₹2 lakhs. Thereafter, her father had paid ₹2 lakhs on 01.07.2007 and this money was spent on drinking and gambling. Her husband also tried to intoxicate her with water laced with some substance, when she refused to take, then she was beaten and her father-in-law has asked her to set her on fire. On 30.08.2007, her father visited to her in-laws house and requested to accompany his daughter, but all in vain.

After investigation, the challan was presented, charges were framed under Sections 498-A, 406 and 506 read with Section 34 IPC. The prosecution has examined eight witnesses and thereafter the statements of the accused recorded under Section 313 Cr.P.C.

The trial Court after going through the oral and documentary evidence, convicted the accused for a period of one year for the commission of offences punishable under Sections 498-A, 406 and 506 read with Section 34 IPC.

In appeal before the appellate Court, it was highlighted by the appellants that the present case was a counter blast of case FIR No.281 dated 05.09.2009, under Sections 323, 325 and 506 IPC, registered against the complainant party. The said FIR was got registered by Virender, husband of complainant Anita, against accused Balram, who is brother of complainant Anita, under Sections 323, 325, 506 and 379 IPC and the trial is pending in the Court at Hodal, The allegations in the said FIR were that on 01.08.2009 Virender had returned to their quarter, after leaving his father at Palwal, when

intention were standing in the dark and they have gagged his mouth, lifted after holding from his back side, took him in the bushes, where they started to beat him mercilessly with lathi, danda and hockey sticks, ultimately, he fell unconscious and when he regained consciousness, he called Chetan on telephone. He identified Balram son of Mohan Lal, who is his brother-in-law and they have cracked his both feet. He stated that he had married about 3-4 years ago, having no child and his in-laws are trying to get his wife separated from him but he wanted to restitute his wife. They have also threatened his father to finish his life. Thereafter, DDR No.14 was lodged on 03.08.2009 with regard to the incident took place on 01.08.2009 and the present FIR has been registered on 19.08.2009 on the directions issued under Section 156(3) Cr.P.C. by the Police Station, Hodal.

During trial in the present case, PW-6 SI Narayan Singh has deposed that Balram is the real brother of complainant-Anita and when accused Virender was arrested he having multiple injuries on his feet. No notice under Section 160 Cr.P.C has been given to the appellants. PW-7 Brij Kishore has stated when case was registered, complainant Anita was residing at her parental house and her parents were not interested to send her. There was no MLR on the file to suggest that appellants had ever beaten the complainant. With regard to allegations of demand of ₹2 lakhs, the complainant has examined herself as PW-2 and during her cross-examination she stated that her father having 1½ acres land and apart from agriculture land her father used to plying his vehicle. She could not tell from where her father has arranged ₹2 lakhs, which as per allegations in the FIR was paid to her in-laws family. Even PW-1 Mohan Lal, father of the complainant, in his deposition, could not state from where he has arranged ₹2 lakhs. The allegations in the FIR did not make

not made out.

Thereafter, Murari Lal, who was the mediator of the marriage of complainant-Anita and Virender, has not been cited as witness and he could clarify whether any fraud had been committed on solemnization by not disclosing the actual fact to the complainant party that in-laws of complainant owned house and were having plots in their names and later it was to be found false. Dowry articles have already been recovered by the police, vide memo Ex.PW-2/B.

In the absence of any specific date of demand of dowry and the demand of ₹2 lakhs, the essential ingredients under Sections 498-A and 406 IPC are not made out.

With regard to the allegations under Sections 506 IPC, neither there was any evidence that Virender had tried to administer water by mixing some substance in it to the complainant's daughter nor any report of analysis of that water. Thus, the offence under Section 506 IPC is not made out.

In these circumstances, learned Additional Sessions Judge (I), Palwal, after considering the prosecution version and defence version, giving benefit of doubt to the accused and acquitted them, vide judgment dated 07.07.2015.

After going through the judgment of acquittal, this Court is of the considered view that the appellant has miserably failed to produce any cogent evidence on record to prove the charges against the accused. Therefore, no interference is warranted in the impugned judgment dated 07.07.2015, passed by the Additional Sessions Judge (I), Palwal. Such judgment, containing valid reasons, cannot possibly be interfered with by this Court, unless and until, the same is illegal, perverse and without

jurisdiction. Since, no such patent illegality or legal infirmity has been found in the impugned judgment, so, the same deserves to be and is hereby maintained in the obtaining circumstances of the case.

In the light of aforesaid reasons, as there is no merit, therefore, the instant appeal is hereby dismissed as such.

March 09, 2017
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No