

CRA-S-1806-SB of 2005 (O&M)

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

CRA-S-1806-SB of 2005 (O&M)
Date of decision : 01.09.2017

Tarlochan Singh

... Appellant

Versus

State of Punjab

... Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Sumeet Puri, Advocate,
for the appellant.

Mr. A.S.Gill, Senior DAG, Punjab.

JITENDRA CHAUHAN.J.

This appeal is directed against the judgment and order dated 10.09.2005 passed by learned Additional Sessions Judge (*Ad hoc*), Amritsar vide which the appellant was convicted under Section 498-A of the Indian Penal Code and sentenced to undergo RI for one and a half year and to pay fine of Rs.500/- with default stipulation.

Briefly stated the case of the prosecution as noticed in the judgment passed by learned trial Court is as under:-

“Tarlochan Singh son of Kartar Singh, resident of Ramdass, Tehsil Ajnala, Distt. Amritsar was sent up by the prosecution to face his trial under Sections 307, 498-A, 406 IPC. During the course of trial, on an application made u/s 319 Cr.P.C. of the prosecution, Gurmit Kaur, his mother and Kartar Singh, his father who were found innocent in the investigation and whose names were shown in Col. No.2 of the report u/s 173 Cr.P.C., were also summoned to stand trial alongwith Tarlochan Singh, accused. As such all these accused are facing trial in this

case which was registered on the basis of representation Ex.PD on 18.8.04 of Kulwant Singh son of Tara Singh resident of Jagdev Kalan Distt. Amritsar. It was stated by said Kulwant Singh in the representation Ex.PD that his daughter Ramandeep Kaur was married on 17.2.03 with Tarlochan Singh, accused. On the occasion of the marriage sufficient dowry was given to his daughter by him. Tarlochan Singh and his parents were not satisfied with the dowry and therefor, soon after the marriage, they had started harassing Ramandeep Kaur. They required her to bring Rs.2,50,000/- from her parents on the pretext that Tarlochan Singh was to make more expansion of his work and in connection with that demand, they started beating her. She complained to Kulwant Singh who paid to the accused Rs.50,000/- in June, 2003. They were not satisfied with that. Therefore, they physically and mentally tortured her. She used to be closed by them in a room and they even did not provide her meals. She used to be expelled by the accused from her matrimonial house in three wearing apparels. Kulwant Singh and other respectable persons used to send her back to her matrimonial home. In October, 03, she was driven out of the house by the accused. Kulwant Singh again paid Rs.50,000/- to the accused with the hope that she may be in a position to life happily. They continued to maltreat her. On 22.7.04, he was told by Ramandeep Kaur on telephone that she was beaten by all the accused, and they had made her life hell. He promised to see Ramandeep Kaur on the next day. On 23.7.04, he received message on telephone from other person, that the accused had badly beaten Ramandeep Kaur and they had administered her some poisonous substance. As such, Kulwant Singh, along with Harpal Singh, Gurjit Singh, Major Sing rushed to the house of the accused who were present there. Ramandeep Kaur was found in precarious condition. When they enquired from the accused about the condition of Ramandeep Kaur, they told them that she had taken acid and then they slipped away from there. They brought Ramandeep Kaur and got her admitted in Hartej Hospital.”

Charges under Sections 307, 498-A, 506 and 406 of IPC were framed against all the accused, to which they pleaded not guilty and claimed trial.

In order to prove, its case, the prosecution examined PW1-Dr. Harmohinder Singh Nagpal, PW2-Dr. K.S.Pathania, PW3-Ramandeep Kaur, PW4-Kulwant Singh, PW5-SI Gurdev Singh, PW6-Dr. G.S. Randhawa, PW7-SI Yadwinder Singh, PW8-SI Ranjit Singh and PW9-HC Sukhwinder Singh and thereafter closed its evidence.

The statements of accused including the appellant were recorded under Section 313 Cr.P.C in which all the incriminating circumstances appearing in the prosecution evidence were put to them, which they denied and pleaded false implication.

No evidence in defence was led by the accused.

After appraisal of the evidence, the trial Court vide impugned judgment and order dated 10.09.2005, acquitted Kartar Singh and Gurmit Kaur (parents-in-law) of the charges framed against them, whereas, appellant-husband Tarlochan Singh was convicted and sentenced, as narrated above.

Feeling aggrieved against the judgment and order dated 10.09.2005 passed by learned trial Court, the appellant has filed the instant appeal.

It is contended that on the same set of evidence, co-accused Kartar Singh and Gurmit Kaur, parents of the appellant were acquitted by learned trial Court. Appellant Tarlochan Singh was also acquitted under Sections 307, 406 and 506 IPC, however, learned trial Court fell in error while convicting him under Section 498-A IPC without there being any

evidence on record to prove the offence. There is also unexplained delay of 11 days in lodging the FIR. Only vague and general allegations have been levelled against the appellant. Even otherwise, the parties settled the dispute vide agreement dated 24.01.2011 (Annexure A-1), whereby, the prosecutrix was paid a sum of Rupees one lakh seventy five thousand and all the dowry articles from the appellant. The appellant was working with SGPC, but he was placed under suspension due to conviction in the present case. No other case is pending against him.

On the other hand, learned State counsel submits that the case of the prosecution stands fully proved against the appellant. PW-3, Ramandeep Kaur (prosecutrix) and her father, complainant Kulwant Singh, PW-4, have categorically deposed that the appellant had raised a demand of Rupees two lakh and fifty thousand. But PW-4 could pay only Rupees fifty thousand, the prosecutrix was subjected to cruelty. Learned trial Court has rightly convicted the appellant for the commission of the offence punishable under Section 498-A IPC.

I have heard the rival contentions of learned counsel for the parties and have perused the record.

It is a settled position that what is punishable under Section 498A Indian Penal Code is the act of cruelty or harassment by the husband or the relative of the husband on the woman. It is also well settled that mere demand of money for business by the husband would not fall under the definition of cruelty. It is the bounden duty of the prosecution to prove that

the woman was subjected to cruelty or harassment on account of demand of dowry.

In the instant case, PW-4, Kulwant Singh, has deposed in most unambiguous words that the accused wanted him to pay them Rupees two lakh fifty thousand in connection with the business of appellant Tarlochan Singh. No reliable evidence with regard to demand of dowry and torture/harassment due to non-fulfillment of dowry has been proved on record. There are vague statements of PW-3, the prosecutrix and PW-4, Kulwant Singh, that the prosecutrix was harassed for not fulfilling the demand. The Court feels that on the basis of these vague statements, charge under Section 498-A IPC cannot be held as conclusively established against the appellant for want of specificity.

The deceased allegedly died due to consumption of some acid. Learned trial Court has rightly disbelieved the version of the prosecution under Sections 307, 406 and 506 IPC as it is the admitted case of the prosecution that on 23.07.2004, the prosecutrix was taken to the hospital by the appellant, whereas, the prosecution has tried to project Kulwant Singh along with his son and brother, who had gone to the house of the appellant on 23.07.2004, removed her to the hospital. PW-1, Dr. H.S. Nagpal, has stated that there may be many causes for gastric outlet obstruction for which the prosecutrix was operated upon. Not even a single question was put to this witness if he suspected the case to be of forcible administration of acid to the prosecutrix. Had the appellant administered acid to her, he would not

have promptly taken her to the hospital. The medical evidence on record also belies the prosecution version that it was a case of administering of poison/acid to the prosecutrix. The trial Court has rightly held that no such incident of administering acid on 23.07.2004 had ever taken place.

So far as the offence under Section 498-A IPC is concerned, it is the case of the prosecution that PW-4 Kulwant Singh had actually paid a sum of Rupees fifty thousand to his daughter, the prosecutrix. The allegations levelled against the appellant are not credible as they miserably fall short of the basic details such as the day, date, time or any definite or particular incident of any harassment towards demand of dowry with respect to the prosecutrix and thus fail to attract the scope of Section 498A IPC. Hon'ble Delhi High Court in ***Smt. Neera Singh v. The State (Govt. of NCT of Delhi) and Ors. I (2007) DMC 542*** has observed that *"in the absence of any specific allegations attributing any specific overt acts against any of the appellants pertaining to the alleged demand for dowry and subjection of the complainant to harassment and ill-treatment, continuance of proceedings against them based on the general and omnibus allegations of sweeping nature, is nothing but abuse of process of law"*.

In the instant case, the prosecution has not been able to prove its case against the appellant beyond reasonable doubt to the effect that the prosecutrix was harassed or meted with cruelty for or in connection with demand of dowry. Thus, the prosecution has failed to prove its case under Section 498A IPC against the appellant and the judgment of conviction and

order of sentence deserve to be set aside.

As a result, the present appeal is allowed; the impugned judgment and order passed by learned trial Court are set aside; and the appellant is acquitted of the charge framed against him. The appellant is stated to be on bail. His bail bonds stand discharged.

September 01, 2017
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No