

CRM-A-1524-MA of 2016

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

CRM-A-1524-MA of 2016
Date of Decision: 06.09.2017

Santra Devi

....Applicant

Versus

Chattar Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Sandeep Kumar, Advocate,
for Mr. Vikram Singh, Advocate, for the applicant.

RAMENDRA JAIN, J. (ORAL)

Through this application under Section 378(4) Cr.P.C. prayer has been made for grant of special leave to appeal against the judgment dated 01.08.2016 passed by learned Additional Chief Judicial Magistrate, Panipat.

Briefly stated, the applicant filed a complaint under Sections 420 and 406 IPC against the respondents on the allegations that she was married with one Hari Kishan son of respondent No.1 – Chattar Singh on 11.04.2011 according to Hindu rites and ceremonies. Her parents had given sufficient dowry articles. Respondents No.2 to 6 are near and dear ones of respondent No.1. It was the second marriage in between the parties. Earlier, Hari Kishan was married to one Kamla Devi, who expired on 28.01.2000 on account of having the disease of “AIDS”. At the time of marriage of the applicant with Hari Kishan (since deceased) all the respondents were well-aware that he was suffering from “AIDS”, but they in collusion with each other, by concealing the said fact, got solemnized her marriage with Hari Kishan. In this way, they have cheated the applicant.

Even the dowry articles and *istri dhan*, on demand, were not returned by the

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respondents. The applicant adduced the evidence to her satisfaction.

Statements of the accused under Section 313 Cr.P.C. were recorded putting entire incriminating evidence came on record against them to which they denied and pleaded their false implication.

After hearing both the parties, learned trial Court passed the impugned judgment.

Learned counsel for the applicant contended that earlier wife of her husband late Hari Kishan, namely, Kamla Devi had died in 2000 having the disease of "AIDS", which was transmitted to her by Hari Kishan only. Despite having specific knowledge by all the respondents that Hari Kishan was suffering from "AIDS", they hatched a conspiracy with each other and got solemnized the marriage of the applicant with him, who died in the year 2013.

I have given anxious consideration to the submissions made by learned counsel for the applicant.

It is not disputed that late Hari Kishan, husband of the applicant, was serving in the Army under 269 Engineer Regiment and died on 28.05.2003. The applicant in support of her case has made only oral assertions without being corroborated by any medical or documentary evidence that Kamla Devi, earlier wife of late Hari Kishan, had died on account of "AIDS", allegedly transmitted to her by Hari Kishan. Even the applicant did not lead any evidence to prove that Hari Kishan had also died on account of the said disease. The applicant also did not produce any evidence on the record that any dowry articles were ever entrusted to respondents No.1 to 4 at the time of her marriage. There is no iota of

evidence on the record that any of the respondents had prior knowledge about the alleged disease of "AIDS" to Hari Kishan and they, by hatching a

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conspiracy, got solemnized the marriage of the applicant with Hari Kishan. PW3 Prem, mother of the applicant, and CW3 Bhira Ram have deposed that they came to know about the disease of Hari Kishan from the Army hospital and they had no prior knowledge about the same. In the absence of any such evidence, complaint has rightly been dismissed.

I have gone through the impugned judgment and find no illegality or perversity in the same. The same is, accordingly, affirmed and the instant application is dismissed.

September 06, 2017
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No