

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-A No.2009-MA of 2015

Date of decision : 21-02-2017

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Surinder Kaur

.....Appellant

Versus

Jaswant Singh and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: None.

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RITU BAHRI, J.

The complainant has come in appeal against the judgment dated 21.11.2015 passed by the Judicial Magistrate First Class, Fazilka, whereby the respondents-accused were acquitted in a complaint under Sections 406, 498-A of Indian Penal Code.

Briefly stated, the facts of the case are that the marriage of Surinder Kaur, complainant was solemnized with accused no.1 Jaswant Singh no. 28.3.2011 at Village Dhani Chirag Dakhli Jhotianwali, Tehsil Fazilka. Accused no. 2 to 5, Karnail Singh, Guro Bai and Amar Singh also attended the marriage. Father of the complainant gave her dowry articles beyond his capacity. After the marriage the *Stridhan* of the complainant was never handed over to her and she was being harassed and maltreated on

account of bringing insufficient dowry and that too of inferior quality. On 25.6.2012, Jaswant Singh, husband of the complainant on the instigation of accused no. 2 to 5 caught hold of her from her plait and turned her out of the matrimonial home. In this regard, a panchayat was also convened by the father of the complainant. The panchayat requested the accused to allow the complainant to reside in her matrimonial house and stop harassing her for want of dowry. She was left in her matrimonial home with the hope that everything will be settled by time. But, the attitude of the accused towards the complainant remained rude. On 25.9.2012, again the accused turned her out of the matrimonial home. Her father again convened a panchayat consisting of her maternal uncle, Balwinder Singh uncles Nishan Singh and Resham Singh who went to the village of the accused and requested them to rehabilitate the complainant in her matrimonial home, but to no effect. The accused also refused to return *Stridhan* of the complainant by stating that they had misappropriated the same. In this background, the complaint was filed.

In support of her allegations, complainant examined as many as three witnesses. The complainant Surinder Kaur herself stepped into the witness box as CW-1 and then examined Karnail Singh as CW-2 and Nishan Singh as CW-3. They made their statements on similar lines on which the complainant levelled the allegations against the accused.

After summoning the accused charges were framed under Sections 406, 498-A IPC against them, to which they pleaded not guilty and claimed trial. The trial Court framed two points for determination. Point No.1 is reproduced hereunder:-

“Point No.1:Whether the complainant has

been able to prove that on 28.3.2011, the complainant Surinder Kaur was married to Jaswant Singh accused no.1 and at the time of marriage, all the accused being family members of Jaswant Singh were entrusted with dowry articles belonging to complainant Surinder Kaur as her Istridhan and after the marriage, all the accused criminally misappropriated the said articles and converted them into their own use and all the accused committed criminal breach of trust in respect of dowry articles and that after the marriage, Jaswant Singh accused being husband of complainant Surinder and Karnail Singh, Guro Bai, Amar Singh and Raj Kaur being family members of Jaswant Singh started maltreating the complainant Surinder Kaur and subjected her to cruelty in lieu of illegal demands of dowry?”

During the trial, the complainant did not lead any evidence to show that from which shop and which city the dowry articles were purchased by them. Even no shopkeeper was examined from whom these articles were purchased. Both CW-1 and CW-2 during their cross-examination in their pre-charge evidence have admitted that they have no bill of any article which they allege that they have given to the accused persons at the time of marriage. Thus it was held that since the complainant has failed to prove even the purchase of any of such article, it was incredible that any such article was handed over to the accused persons. Thus the allegation under Section 406 IPC could not be proved against the accused.

As regards the allegation of cruelty, complainant as CW-1 during her cross-examination stated that she was beaten by accused due to which, there were scars all over her body and she got herself medically examined. But, in this regard, neither she produced nor proved on record any document regarding her medical examination by any doctor. Further in her cross-examination, she stated that she did not know whether she was medically examined in a government hospital or at some other place. Even CW-2 Karnail Singh in his cross-examination stated that he did not get his daughter medically examined regarding beatings given to her by accused persons. Hence the version of beatings and cruelty to the complainant stood falsified. Even the version of the complainant that when the Panchayat was taken to the house of the accused they were beaten by the family members of the accused for one and a half hours was held to be incredible. Because, in such case, the Panchayat members themselves would have got themselves medically examined and their medical reports would have been proved on record. But no such record has been produced and proved on the file. Thus, in this background, even the version that the complainant and her father had taken the Panchayat to the house of the accused twice was not believable. Moreover, even complainant's fuffar Resham Singh, her mama Balwinder Singh and her taya Nishan Singh, who were allegedly members of the said Panchayat were not examined in support of her version. Thus, the allegation under Section 498-A also could not be proved against the accused.

In view of the above findings recorded by the trial Court, the accused have been rightly acquitted of the charges under Section 406, 498-

A IPC.

In view of all that has been discussed above, I find no infirmity or irregularity in the judgment of the trial court that warrants interference of this Court. Hence the appeal is dismissed.

21-02-2017

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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No