

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-933-MA-2017

Decided on: 22.11.2017

Baruram through his daughter Anita

....Applicant

vs.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Abhishek Yadav, Advocate,
for the applicant.

MAHABIR SINGH SINDHU, J.

The applicant has filed the present application under Section 378(4) of the Code of Criminal Procedure, for short 'Cr.P.C.' for seeking special leave to appeal against the judgment dated 30.07.2016 vide which respondents No.2 and 3 have been acquitted by Learned Additional Sessions Judge, Hisar, for short 'Trial Court', from the charges under Sections 498-A/326/307/34 of Indian Penal Code, for short 'IPC'.

2. Initially, the complaint was filed by applicant/complainant-Baruram and later on he died and the same was pursued by his daughter Anita. The brief facts of the case are that the applicant is the resident of Krishna Colony, Jind Road, Hansi and his daughter Anita was married on 20.02.2002 with respondent No.2-Hawa Singh. Sufficient dowry was given, but after six months of the marriage, accused persons started harassing his daughter on account of demand of dowry. To meet their demand, the complainant gave some more money and other articles and in due course Anita became pregnant and thus, the accused started more

harassment to his daughter. Her mother-in-law-Gina Devi threatened that she would be turned out of the house and there is no chance of her getting re-marriage also and her parents will have to bear the expenses of delivery of the child. All three accused turned out Anita from their house after giving beatings. Thereafter, Anita informed the complainant on telephone about the entire episode. Then, younger brother of Anita, namely, Bijender Kumar came to meet her and she was taken to her parent's house at Hansi, where she was treated in Janta Hospital.

In order to know the reasons behind the harassment to their daughter, the complainant alongwith his relatives visited the village of accused and on account of fear, they admitted their mistake and assured that these things will not be repeated in future. On account of injuries in the womb of Anita, she was undergoing treatment in hospital at Hansi and the accused persons did not even care to see her. Thereafter, on 05.12.2003, Anita gave birth to a male child but no one from the family of accused came to see her. After two months, the complainant convened a meeting of the respectables in the house of accused and at that time also, they raised a demand of motorcycle, two gold chains as well as gold bangles for the accused and their mother, but complainant showed his inability. On account of the intervention of panchayat, Hawa Singh-respondent No.2 had taken Anita with him at village Arya Nagar in the month of March 2004, but the accused persons again started harassing Anita. Although, she tolerated the harassment, but again respondent No.3-Harpal and his mother demanded an amount of ₹1,00,000/- (Rupees one lakh) for business purpose and in case of failure, they made it very clear that they will not allow Anita to live in the house. Again on 20.06.2008, complainant received a telephonic call

that his daughter Anita was admitted in Soni Hospital, Hisar and he reached at the hospital where he found that she was admitted in hospital due to burn injuries with acid and she was not in a position to speak. On account of suffering the injuries, she was admitted in ICU and respondent No.2-Hawa Singh asked the complainant that he got the statement of Anita recorded to the police that she received the burn injuries due to acid. Thereafter, on 01.07.2008, Hawa Singh-respondent No.2 got discharged Anita from the hospital and the complainant came to know about this fact when he went to meet his daughter in the hospital. Consequently, the complainant alongwith his relative Telu Ram reached Arya Nagar and found that the condition of Anita was very serious and the respondents got discharged the Anita with an intention that she should die. The complainant requested the respondents to get Anita admitted in the hospital, but respondent No.3-Harpal Singh and his mother flatly refused. Consequently, injured Anita was taken to Civil Hospital, Hisar by the complainant and respondent No.2-Hawa Singh also accompanied them to the hospital. Thereafter, on 18.09.2008, Anita was discharged from hospital and was taken to Hansi by the complainant where she disclosed that on account of fear, she did not disclose the real facts to her father and she further stated that on 20.06.2008, all three accused in furtherance of their common intention threatened her that she should bring an amount of ₹1,00,000/- (Rupees one lakh) till the evening and in case of failure, she will face dire consequences. She further told that in the evening at 4.00 p.m. on 20.06.2008 accused persons poured a can filled with acid upon her when she was lying and she covered her face with cloth and saved her face, but the remaining part of the body was burnt. She further told that when she came out of the house,

several persons gathered there, but due to fear accused had taken her to Soni Hospital, Hisar and there also they gave her threats that if she discloses anything about the occurrence, then she would be eliminated alongwith her son. The complainant made many requests to the police as well as DDR No.57 was also entered, but no action has been taken and ultimately, the private complaint was filed on 03.10.2008.

3. Thereafter, preliminary evidence was recorded and accused were summoned for the offences punishable under Sections 498-A, 326, 307 read with Section 34 IPC. The accused appeared and the case was committed to the Ld. Sessions Court for trial. Charges were framed under Sections 498-A, 326, 307 and 34 IPC to which accused pleaded not guilty and claimed trial. Complainant examined three witnesses, i.e. PW-1 Telu Ram, PW-2 Anita-complainant and Dr. M.L. Kamra as PW-3 and brought on record the documents Ex.P-1 to P-3.

4. Accused Gina Devi died during pendency of the trial and proceedings against her were dropped by the learned Trial Court vide order dated 27.11.2014. During pendency of the complaint, complainant Baruram also died and his daughter Anita was substituted as complainant.

5. Statements of both the accused/respondents were recorded under Section 313 Cr.P.C. and they pleaded false implication and claimed innocence. In their defence, accused-respondents No.2 and 3 examined Krishan Kumar DW-1, Balwant Singh DW-2 and ASI Krishan Kumar DW-3 and brought on record documentary evidence and after hearing both sides, learned Trial Court acquitted the accused-respondents No.2 and 3 of the charges primarily on the ground of non-explanation of long delay in filing the complaint as well as on account of benefit of doubt.

6. Hence, the present application for leave to appeal.

7. Learned counsel for the applicant has argued that the impugned judgment is based on surmises and conjectures and the Ld. Trial Court has not taken into consideration the material available on record which clearly proves the charges against the respondents and thus, their acquittal is not legally sustainable.

8. Heard Ld. counsel for the applicant and perused the paper book, but this Court does not find any merit in his submissions.

9. No doubt, prosecutrix Anita has supported the case as pleaded in the complaint. There is no dispute that marriage between the prosecutrix Anita and respondent No.2-Hawa Singh was solemnized on 20.02.2002 and the occurrence is alleged to have taken place on 20.06.2008 and present complaint is filed on 03.10.2008. Further, it is necessary to mention that there is a considerable delay in filing the complaint and there is no explanation by the prosecution which is more than five years from the alleged occurrence. The prosecution has come up with a story that Anita was under threat of accused Hawa Singh and that is why she could not disclose about the true facts but this version itself is improbable one, because the accused is not a powerful person. In para No.9 of the complaint, the complainant has stated that he had met with the Anita for a very short time on 20.08.2006 itself. In the complaint itself, it is the version of the complainant that accused Hawa Singh had disclosed to the complainant about making statement by Anita to the police but later on Anita stated that she did not make any statement to the police. Therefore, the statement Ex.DF was recorded in presence of the doctor as is apparent from the certificate of the doctor concerned given on that statement. There

is no evidence led by the prosecution to the effect that any complaint was given by the complainant or Anita to the police, rather, the complainant has directly filed the present complaint in the Court. From the defence evidence, it is clear that respondent No.3-Harpal Singh used to reside with his mother separately and thus, he cannot be said as beneficiary of any demand of dowry. He also confirmed that it was the second marriage of Anita with accused/respondent No.2-Hawa Singh and thus, it cannot be presumed that the accused would have demanded any dowry as stated by the complainant in his complaint.

10. From the testimony of DW-1 Krishan Kumar, Inspector, Food and Supply, Hisar, it has been proved that ration card of both the respondents are separate and their mother used to reside with respondent No.3. Thus, there cannot be any demand of dowry or interest of respondent No.3 and his mother. DW-3 ASI Krishan Kumar has proved the statement dated 20.06.2008 Ex.DF made by the prosecutrix, in which it is mentioned that Anita remained fit throughout for making the statement. From the cross-examination of PW-1 Telu Ram, it is proved that father of Anita used to visit the hospital at Hisar and respondent No.2-Hawa Singh used to remain there. Still further, there is testimony of PW-3 Dr. M.L. Kamra, who has stated that prosecutrix was admitted in Civil Hospital, Hisar by respondent No.2-Hawa Singh and she was having 25% burn injuries on her body and further from the statement of PW-4 Dr. S.K. Soni, it is apparently clear that prosecutrix was conscious and her vital organs were stable. Merely shifting of the victim from private hospital to Civil Hospital cannot be treated as device to let her die with malafide intention. The stand of the respondents that prosecutrix suffered the burn injuries on account of

accidental falling of acid is proved by way of cogent evidence as well as from the testimony of both the doctors, i.e. PW-3 and PW-4.

11. In view of the above, this Court is fully in agreement with the reasoning given by learned Trial Court while acquitting both the respondents being the possible view. There is no merit in the present application to grant special leave to appeal.

12. Consequently, the application under Section 378(4) Cr.P.C. for special leave to file the appeal against the judgment of acquittal dated 25.04.2016 passed by Ld. Trial Court is hereby dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

22.11.2017

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No