

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR No. 117 of 2016 (O&M)

Date of decision : 28-04-2017

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Rajesh

.....Petitioner

Versus

Prithvi Singh and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. R.A Sheoran, Advocate for the petitioner.

Mr. J.S Dahiya, Advocate for the respondents.

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RITU BAHRI, J.

Petitioner-Rajesh has come up in the present revision petition against the order dated 6.10.2015 passed by the Additional Sessions Judge, Bhiwani whereby an appeal against the judgment dated 16.3.2013 passed by the Judicial Magistrate First Class, Charkhi Dadri was dismissed. Vide the trial Court judgment dated 16.3.2013, respondents were acquitted of the charges levelled against them under Sections 498-A, 406 & 506 IPC.

Brief facts of the case, are that, the present case was registered on the complaint of complainant Smt. Rajesh. She alleged that her marriage was solemnized with accused Anoop on 1.7.1998 at Village Tikan Kalan as per Hindu rites and ceremonies and her father had spent sufficient amount in

her marriage as per his capacity. After marriage her in-laws started harassing her on account of bringing insufficient dowry. The complainant told about this to her parents and brothers Ranbir and Krishan. They assured her that this matter would be settled after sometime. She gave birth to a female child on 25.12.2000 and a male child was born to her on 3.1.2002. After the birth of the male child, the accused made a demand of a car and Rs.50,000/- in cash, four gold bangles and one gold necklace. Parents of the complainant spent sufficient amount on the birth ceremony of her son but the accused were not satisfied and they started causing physical cruelty to her by beating her. The accused used to keep her locked in a separate room and not allowed her to talk to neighbours. On 31.12.2003, the complainant was turned out from her matrimonial house. She was beaten and threatened by her in laws that she would be killed if their demands were not fulfilled. On the same day, she came back to her parental house and narrated the entire episode to her parents. Her brother Ranbir and uncle Dhoop Singh took her back to her matrimonial home at Chandigarh and tried to resolve the dispute. But the accused threatened them that they will not let the complainant reside in her matrimonial house until their demands are fulfilled. However, they left the complainant at her matrimonial house and assured them that they will try to fulfill their demands at the earliest. But the accused started harassing and torturing her again. The complainant again conveyed to her parents on telephone about the maltreatment caused to her by her in-laws. On 2.7.2005, accused gave severe beatings to the complainant. She was locked in a separate room. When her brother Ranbir came at Chandigarh she was given beatings in his presence also. Her brother Ranbir was also assaulted when he tried to

intervene. The complainant and her brother were turned out of the house and were also threatened to be killed if their demands were not fulfilled. On the basis of the complaint of the complainant, FIR bearing No.176 dated 26.8.2006 was registered. Statements of the witnesses were recorded under Section 161 Cr.P.C. After completion of investigation, challan under Section 173 Cr.P.C was prepared against the accused. They were charge sheeted for the commission of offences punishable under Sections 405, 498-A and 506 IPC to which they pleaded not guilty and claimed trial.

In order to prove its case, prosecution examined Rajesh as PW-1, Sher Singh as PW-2, Sub-Inspector Japan Singh as PW-3, Ghan Shyam as PW-4 and Shish Ram (retired Sub-Inspector) as PW-5, Dhoop Singh as PW-6, Krishan as PW-7, Phooli Devi as PW-8 and Inspector Dheeraj Kumar as PW-9. Statements of the accused were recorded under Section 313 Cr.P.C were recorded, wherein they pleaded innocence and false implication.

The trial Court after going through the evidence observed that as per the version of the complainant that she was severely beaten and harassed several times by the accused with regard to demand of dowry, no medical evidence has been produced. Moreover, even the date, month and year have also not been mentioned when the alleged manhandling incidents took place. The complainant has also not mentioned the date of entrustment of dowry articles and also not specifically mentioned to whom the articles have been entrusted. Hence, no offence under Sections 498-A, 406 and 506 of the IPC was made out. Vide judgment dated 16.3.2013, all the accused were acquitted.

On appeal against the judgment of the trial Court, the appellate

Court thoroughly examined the evidence of the complainant. Smt. Rajesh while appearing as PW-1 stated that her marriage was solemnized with accused Anoop Singh on 1.7.1998. PW-1 when stepped into witness box has stated that immediately after the marriage she was tortured for bringing less dowry. At the time of '*chhuchhak*' ceremony of her child, demand of one car and cash of Rs.50,000/- was raised by the accused. She further stated that apart from this, there was demand of as many as four gold bangles by her sister-in-law and one gold necklace by her mother-in-law. She was ousted from her matrimonial home on 31.12.2002. She came back to her matrimonial house and again she was ousted from her matrimonial home on 31.12.2003. After some time, complainant was again left at her matrimonial house. Her mother-in-law again started torturing her and beating her. She was being confined in a room and was not provided any food. On 29.12.2004, she gave an application before the Women cell and a compromise was effected. The complainant again went to her matrimonial house at Chandigarh with her father-in-law and mother-in-law. She also moved an application before the Superintendent of Police, Bhiwani, wherein also, she had mentioned the fact about demand of a cash amount of Rs.50,000/-, four bangles and a gold necklace from her in laws. She further stated that she was brought at Village Ajitpura by her brother. She also stated that her husband had sent the keys of their house through his uncle (Rajbir) and then she had resided in the house at Village Ajitpura for six months. Her mother-in-law did not use to reside at Village Ajitpura though she used to come there occasionally. She stated that she never got conducted any medical examination upon herself. Thereafter the revisional Court went through the evidence given by PW-2 Sher Singh to depose about

solemnization of marriage of PW-1 with accused Anoop Singh. He stated that the compromise was effected between the parties several times with their own consent. He further admitted that he never went to Village Ajitpura. PW-3 proved FIR Ex. PW3/A which was registered on receipt of the complaint under Section 156(3) Cr.P.C in the police station. PW-4 Ghanshyam stated that in the marriage of the complainant and Anoop Singh, the dowry articles were given as per their own consent and all the customs were performed by the parties with their own sweet will. Another witness Shish Ram (Sub Inspector retired) has deposed about memos Ex.PW2/B and Ex. PW2/C. He recorded the statements of two witnesses namely Ghanshyam and Chattar Singh. Dhoop Singh, uncle of the complainant never visited Ajitpura after the marriage and stated that her niece and the accused had been residing at Chandigarh. PW-7, Krishan Kumar, brother of the complainant deposed about the solemnization of marriage of the complainant and Anoop Singh. He further deposed about raising demands of dowry by the accused. However, he admitted that none of the accused had raised the demand of dowry in his presence. He was intimidated by his sister about this. He was not aware as to whether any report was lodged or any MLR was got conducted after the beating incident. He stated that they had paid an amount of Rs.50,000/- as well as ornaments on the demand of the accused. He further admitted that this amount was taken by the accused for the construction of their house. He also stated that an amount of Rs.30,000/- has already been paid by the accused out of the amount of Rs.50,000/-. PW-8, Phooli Devi, the mother of the complainant stated about the demand of Rs.50,000/- raised by the accused for paying the installment.

Sister of Anoop had demanded four gold bangles, whereas accused Anoop

had demanded a car and four bangles as well as gold necklace along with an amount of Rs.50,000/-. She also stated about beating incidents. Lastly, she admitted that the accused had not demanded anything from her and had talked about the demand with the male members of her house. This witness lastly admitted that all these things were told to her by her daughter. The evidence of this witness was hearsay evidence. PW-9 is a formal witness who had prepared the report under Section 173 Cr.P.C. The evidence with regard to demand of dowry as per the mother of the complainant PW-8 was from the male members of the family. The complainant appeared as PW-1 and stated that the demand had been made after the birth of her children at the time of '*chhuchhak*' ceremony. As per the deposition of PW-7, Krishna Kumar brother of the complainant, the demand of Rs.50,000/- was made along with gold ornaments. Further he had admitted that Rs.30,000/- had been returned, meaning thereby that this amount of ₹50,000/- was not a demand of dowry, rather this amount was borrowed by the accused for construction of their house and after some time, out of an amount of ₹.50,000/-, ₹30,000/- had been returned. Thus with the testimony of PW-7, the allegation of demand of ₹50,000/- towards dowry stands falsified. Even the prosecution witnesses could not disclose about the tentative dates, month and year when such demand were raised by the accused. PW-4 who had been residing at the close distance to the parental house of the complainant admitted that whatever dowry articles were given in the marriage, they were given as per the sweet will of the parties. Hence there was no demand of dowry at the time of marriage. He further admitted that both the parties were happy at the time of marriage and even thereafter.

This witness was also present at the time of *barat* and stated that all the

customs were performed as per the sweet will of the parties. The prosecution has miserably failed to prove that there was a demand of dowry before or even after the marriage. The deposition of PW-8 is a hearsay evidence as the demand was made from male members of the family and not from her. In the absence of any MLR, even the allegation that the complainant was repeatedly tortured and beaten by the father-in-law and mother-in-law has been discarded by both the Courts for the purpose of the conviction of the accused in the trial. Necessary ingredients of Section 498-A and 406 remain unproved. Even ingredients of Section 506 IPC remain unproved. Evidence led by the prosecution has been rightly assessed by both the Courts below in acquitting the accused.

In view of all that has been discussed above, no infirmity or illegality is found in the judgment passed by the Courts below that warrant the interference of this Court. Hence, the present revision petition is dismissed.

28-4-2017*ritu***(RITU BAHRI)
JUDGE**

Whether speaking/reasoned

Yes

Whether reportable

No