

CRR-2324-2015

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

CRR-2324-2015 (O & M)

Date of Decision: 09.02.2017

Baljit Kaur

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Parminder Singh-I, Advocate,
for the petitioner.

Mr. Jashandeep Singh, AAG, Punjab.

Ms. Jigyasa Tanwar, Advocate,
for respondent No.2.

INDERJIT SINGH, J.

Petitioner-Baljit Kaur has filed this revision under section 401 of the Code of Criminal Procedure, 1973 against respondents-State of Punjab and Nirmal Singh challenging the order dated 28.04.2015 passed by learned Additional Sessions Judge, Ludhiana vide which charges under Sections 420, 380 and 120-B of the Indian Penal Code (for brevity, 'IPC') have been framed against the present petitioner.

Notice of motion was issued. Learned State counsel put in appearance on behalf of respondent No.1-State and respondent No.2 also appeared through his counsel. They contested this revision.

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I have heard learned counsel for the petitioner; learned State counsel as well as learned counsel for respondent No.2 and have gone through the record.

From the record, I find that a detailed complaint has been filed by respondent No.2-Nirmal Singh against his wife-Baljit Kaur, present petitioner and her son-Sweet Pal Singh for committing theft in the house by taking gold articles and also in respect of giving money to the petitioner even before the marriage i.e. ₹10,000/- on 11.01.2010, ₹1 lakh on 15.01.2010, ₹10,000/- on 03.02.2010, ₹20,000/- on 20.02.2010, ₹5,000/- on 16.03.2010, ₹25,000/- on 31.03.2010, ₹5,000/- on 08.04.2010, ₹1 lakh on 24.04.2010 and ₹20,000/- on 25.04.2010.

Similarly there are allegations that respondent No.2-complainant gave money from time to time to the petitioner and a total amount of about ₹30 lacs has been given. It is also stated that the complainant has deposited ₹4,25,000/- in his Punjab National Bank and remaining ₹5 lakhs etc. were given to Baljit Kaur. Perusal of the FIR shows that now petitioner-Baljit Kaur has left the complainant.

At the time of arguments, learned counsel for the petitioner argued that Baljit Kaur after remaining with respondent No.2 for about one year has left the house and is now residing with one Baljit Singh.

Learned counsel for respondent No.2 argued that respondent No.2 has been cheated of a large amount and gold articles have been taken away by petitioner-Baljit Kaur.

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After hearing learned counsel for the petitioner; learned State counsel as well as learned counsel for respondent No.2 and going through the record, I find that there is nothing in the FIR that from the very beginning, intention of the petitioner was to cheat respondent No.2. Even at the time of arguments, this Court put a query to learned counsel for respondent No.2 to show the averments in the FIR that from the very beginning, the petitioner wanted to cheat respondent No.2 and her only purpose was to grab the money and not to solemnize the marriage. One of the necessary ingredients to prove cheating is that when money was given, intention of the accused at that time was to cheat the complainant. Secondly, I find that from the perusal of FIR, it does not look that the accused with intention to cheat, induced the complainant to pay the money. It is in the FIR that the petitioner asked the complainant to deposit ₹3 lacs in her bank account to show the bank balance as she wants tourist visa. Similarly, she also demanded ₹3 lacs for purchasing a plot. The complainant also gave ₹2,50,000/- to the petitioner for admission of her son and further expenses on study etc. In no way, these payments can be held as made under any inducement of the accused to cheat the complainant. Furthermore, at the time of arguments, it is admitted that the petitioner married with respondent No.2. Secondly, it is admitted fact that she remained with respondent No.2 for about one year. At the time of marriage, the age of respondent No.2 was stated to be 70 years and petitioner was more than 50 years.

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It is not the case of the prosecution that the petitioner after taking money left respondent No.2 after few days of the marriage and the purpose of the marriage was not to reside with him, but to extract money. If it would have been the purpose, then why the petitioner had stayed for about one year with the complainant. If she has left the house, the petitioner has remedies under the matrimonial laws. Even if it is taken that wife takes some gold ornaments, it does not amount to theft. Petitioner-Baljit Kaur is still wife of complainant-Nirmal Singh.

Therefore, in view of these facts and circumstances, I find that no *prima facie* is made out under Sections 380 and 420 IPC against the petitioner. Furthermore, the FIR qua Sweetpal Singh, son of the petitioner, has already been quashed by this Court, as argued at the time of arguments. Now only the petitioner remains in this case and, therefore, no charge is made out under Section 120-B IPC against the petitioner.

Keeping in view the above discussion, I find that *prima facie* no case is made out against the petitioner. The impugned order is not correct and as per law. Therefore, the instant revision is allowed and the impugned order dated 28.04.2015 is set aside. Accused-petitioner is discharged in this case.

09.02.2017

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Whether speaking/reasoned	:	Yes
Whether reportable	:	No