

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

CRR No.2473 of 2014

Date of Decision:27.03.2017

Savita Sharma

.....PETITIONER

Vs.

State of Punjab and others

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.DPS Kahlon, Advocate for the petitioner.

Ms.Manpreet Dhaliwal, AAG, Punjab.

RITU BAHRI J. (ORAL)

The petitioner has come in revision against the order of acquittal dated 03.01.2014 passed by the learned trial Court, Pathankot and impugned judgment and order dated 02.05.2014 passed by learned Lower Appellate Court, Pathankot, where the appeal against respondents No. 2 and 3 was dismissed.

Briefly stated that FIR No.40 dated 06.05.2008 for offence under Sections 498-A and 406 IPC, registered at Police Station, Division No.2, Pathankot was registered with the allegations that marriage of complainant-Savita Sharma daughter of Subhash Chander was solemnized with Parmodh Kumar son of Swaranjit Sharma on 07.05.2006, as per Hindu Rites and Rituals. Her parents had given dowry articles beyond their capacity, but the members of her in-laws family including respondents No.2 and 3 were not satisfied with the dowry articles and after passing two months of the marriage, they started harassing, maltreating and beating the petitioner for bringing less dowry. Respondent No.2-Deepak Kumar was used to harass the petitioner by demanding car or motorcycle and was willing to make illicit relations with the petitioner. When the petitioner refused to do the same, then respondent No.2

was used to instigate the husband of the petitioner to harass and beaten up the petitioner. The petitioner narrated these facts before her husband and other family members of her in-laws, but they all supported respondent No.2-Deepak Kumar. When the husband of the petitioner agreed to take her with him to Ludhiana, then respondent no.2 raised objection and asked the petitioner to bring Rs.2,50,000/- from her parents. On 06.09.2006, respondent No.2 and other family members of the in-laws family of the petitioner again instigated her husband to beaten up the petitioner. Due to this beating, the petitioner lost her one week pregnancy and also attributed injuries upon her nose and the in-laws family of the petitioner kept closed her in the house for four days and even did not provide her necessary medical treatment.

Thereafter, they were arrested and investigation of the case was carried out. Statements of the witnesses were recorded and after completion of necessary formalities, challan was presented against the accused and charges were framed.

On appearance of the accused in the Court, copies of necessary documents, as relied upon by the prosecution were supplied to them free of costs, as required under Section 207 Cr.P.C. Initially accused Parmodh Kumar and Suman Kumari were charge-sheeted. Thereafter, application under Section 319 Cr.P.C. was filed by the prosecution and the Court of then learned SDJM, Pathankot, vide order dated 28.03.2011 ordered to Deepak Kumar and Harman Kumari, as co-accused to face trial alongwith accused Parmodh Kumar and Suman Kumari.

Finding a prima-facie case under Sections 498-A and 406 IPC against the accused, they were charge-sheeted accordingly by the Court of then learned SDJM, Pathankot vide order dated 03.08.2011, to which they pleaded

not guilty and claimed trial.

In order to bring home the guilt of the accused, prosecution examined the complainant Savita as PW-1, ASI Tarsem Lal as PW-2, Subhash Chander as PW-3 and ASI Mahabir Singh as PW-4. No other evidence was led by the prosecution and same was closed by the State.

On closure of the prosecution evidence, statement of the accused under Section 313 Cr.P.C. was recorded, in which all the incriminating evidence appearing against the accused from the prosecution evidence was put to them, to which they pleaded false implication and innocence. In their defence evidence, no witness was examined by them and they closed their defence evidence.

After going through the evidence and returned the findings by the trial Court that the Complainant-Savita Sharma while appearing as PW-1 has narrated the story, as put forth by the prosecution and in her cross-examination, she admitted that one of the accused-Harman Kumari was student of 11th class and was studying in School at Haryana and accused Deepak Kumar was unmarried and he was running a business of commission agent at grain market, Haryana alongwith his father Swaranjit Sharma. She also deposed that at the time of her marriage, her husband was serving at Ludhiana and had been coming to Haryana on weekends and interestingly, she has also deposed that she had been staying with her husband at Haryana though she started residing with her husband Parmodh Kumar at Samrala Chowk, Ludhiana and she stayed there alongwith her husband for 10 months and it takes 2-2½ hours by bus to travel from Haryana to Ludhiana. She admitted that her father was posted as Head Constable in Punjab Police at that time and was posted at Pathankot and after her marriage with Parmodh Kumar, she purchased one mobile set and so long she resided with Parmodh Kumar she continued to be in possession of said

telephone. She also deposed that she last time came to her parental house on 24.08.2007 and her husband Parmodh Kumar accompanied her, as she was pregnant at that time and interestingly, she has also deposed that there is custom that first child to a married women should be got delivered at the parental house and she gave birth to a female child on 18.09.2007. Though she had deposed that she disclosed her father about misbehavior of accused with her for the first time in December, 2006 and she again contacted her father in this regard in February, 2007 and then May, 2007 and lastly in August, 2007. During this period, she had been calling upon her father and receiving calls from her parents on each alternative date and she was in continuous contact with her parents on telephone then why she did not bring the alleged treatment of cruelty and harassment to the notice of her parents immediately more particularly, when she was in continuous contact with her parents on telephone on each alternative date. It is highly improbable and unnatural that she had disclosed her father about alleged misbehavior of the accused with her only on four occasions in December, 2006, February, 2007, May 2007 and lastly in August 2007 and no explanation has been given by her to not bringing the alleged acts of the accused to the notice of her parents immediately.

Moreover, in her complaint as well as statement recorded in the Court she has stated that her in-laws alongwith Deepak and sister-in-law Harman Kumari had been instigating her husband for bringing more dowry and to beat her, but as per her allegations, she was married with accused Parmodh Kumar on 07.05.2006 and for the last two months she remained happily in her in-laws' house and thereafter, her in-laws started harassing her for bringing more dowry and as per her admission at the time of her marriage, her husband was residing at Ludhiana and it takes about 2-2½ hours to reach Ludhiana from

Haryana and on 06.09.2006 her husband brought a Car to take her to Ludhiana alongwith him and she was taken by her husband to Ludhiana and till 24.08.2007, she stayed at Ludhiana with her husband. There is no evidence nor any allegation that during that period her in-laws ever visited at Ludhiana. Though the allegations have been levelled that they have been instigating her husband on telephone, but there is no evidence on the file produced by the prosecution to the effect that during that relevant period there had been telephonic conversations between accused-Parmodh Kumar and other co-accused. The complainant has also deposed that she did not know if the police had secured the call details of other accused to her husband when they were residing at Haryana and she had been living with Parmodh Kumar at Ludhiana. She had also admitted in her cross-examination that she had been getting herself checked in routine manner at Ludhiana during pregnancy and she had been getting necessary medicines and vitamins, as prescribed by the doctor to her time to time and she had been going to said doctor for routine checkup alongwith her husband Parmodh Kumar and no sex determination was held at any time. She further deposed that when she started bleeding she was got diagnosed from Dr. Chopra at Ludhiana and at that time, she was accompanied by her husband Parmodh Kumar and this all shows that her husband was taking all care and having affection for the complainant when she was pregnant. It is also stated by the complainant in her cross-examination that a written compromise had arrived at between the parties on 31.12.2007, but no such document has been placed on record on the file, reference of this compromise has been made in the complaint, as Ex.PA, but this document has been withheld by the prosecution. PW-1 complainant and her father while appearing as PW-3 have also admitted that photograph Ex.P/3 pertains to ring ceremony in which

on the backside of Savita and Parmodh Kumar he alongwith DSP Karamjit Singh and his friend Surinder Kumar is standing behind them and in this case, the inquiry was conducted by DSP-Karamjit Singh, who declared them accused in the case. Interestingly, PW-2 has not conducted any separate investigation and started from the inquiry report, as submitted by the DSP and proceeded further with the case. Meaning thereby, no independent inquiry was conducted by the Investigating Officer and action against the accused was taken only on the basis of the inquiry report submitted by the DSP Karamjit Singh, who is none else but the person, who attended the engagement ceremony of the complainant. As regards the dowry articles is concerned, there is no specific entrustment of dowry articles to the accused.

In view of the above noted facts and circumstances, the order of acquittal dated 03.01.2014 passed by the learned trial Court and impugned judgment and order dated 02.05.2014 passed by learned Lower Appellate Court have rightly been passed. Therefore, I do not find merit in the present revision petition and the same is hereby dismissed.

(RITU BAHRI)
JUDGE

27.03.2017
Anjal

Whether speaking/reasoned? Yes/No

Whether reportable? Yes/No