

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1802-2016 (O&M)

Date of Decision:- 19.05.2017

Narender Kumar

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None.

RITU BAHRI, J. (Oral)

Present revision petition is against order dated 29.01.2016, passed by the learned Additional Sessions Judge, Palwal, whereby an appeal filed against judgment of acquittal dated 23.07.2014, passed by Judicial Magistrate 1st Class, Palwal, has been dismissed and accused-respondent No.2 has been acquitted from the charges framed against him.

Concisely, the case of prosecution is that marriage of Manju, sister of complainant-Narender Kumar, was solemnized with accused-Rakesh on 02.02.2006, as per Hindu Rites and Ceremonies. However, in-laws family members of his sister were not happy with the dowry and used to taunt her. On 10.12.2006, accused Rakesh, his sister Vinesh, his father Braham Pal have confined his sister and gave beatings to her in a room and asked her to telephone her father to give a swift car and a sum of ₹2 lacs,

otherwise, they will treat her with cruelty by giving severe beatings. When his sister Manju, ran to save her life towards the roof of the house, then, Braham Pal gave *lalkara* to Miss Vinesh to throw her from the roof and consequently she was thrown from the roof by Miss Vinesh and she has suffered serious injuries on her back and head. His sister has got herself treated in Chandra Hospital. The accused even threatened his sister that if she complained in this regard to anyone she will be killed. On 14.7.2006, the father of the complainant took a panchayat to the village of the accused Kheri Kalan to settle the dispute, and on the asking of the panchayat Manju was sent to her husband home. She stayed there for a day or two but again they started maltreating her. On 20.7.2008, her in-laws again confined his sister Manju in a room and gave beatings to her and asked her she will be treated similarly and kept hungry if she failed to satisfy their demand of dowry. She was kept confined and hungry for two days in a room. The complainant was informed in this regard by her sister on telephone. On suspicion that the sister might be murdered by them he requested the police to safe her sister from their illegal confinement. Consequently, the police has registered the case and got recovered his sister Manju.

After completion of investigation, the challan was filed and the accused was charge-sheeted under Sections 406, 498-A and 506 IPC to which he pleaded not guilty and claimed trial.

In order to substantiate its case, the prosecution has examined witnesses, namely, Smt. Manju as PW-1, Narender Kumar as PW-2, ASI Risal as PW-3, Nand Kishore PW-4, Smt. Santosh Kumari as PW-5, and Attar Singh as PW-6.

Thereafter, the statement of accused was recorded u/s 313 Cr.PC.

Both the Courts after going through the evidence have returned the finding that the prosecution has not been able to prove the factum of cruelty or harassment of the complainant at the hands of the accused beyond all reasonable shadow of doubts. Victim Manju deposed that on 10.12.2006 she was given merciless beatings by her in-laws i.e. accused Rakesh and his family members, including pushing her from the stairs due to which she got badly injured and was admitted to Chandna Hospital for treatment. In the testimony of PW-2 Narender Kumar (complainant/brother of victim) that at Chandna Hospital various medical test were conducted. Now in this case there is medical record to prove with regard to above-said injuries. Moreover, there is no evidence on record to prove the fact that any kind of dowry was demanded by the accused at the time of marriage. Simply stating that husband used to beat her and had demanded a swift car and ₹2 lacs/- cash will not sufficient to convict the accused (husband) in the absence of any cogent and reliable evidence. With regard to allegations of Section 406 IPC, all the articles which was recovered by the police, vide recovery memo Ex.PW4/A are general household articles and essential ingredients in establishing criminal breach of trust under Section 405 and punishable under Section 406 have been missing in the present case.

Consequently, both the Courts below, have held that the prosecution has miserably failed to prove its case against the accused person and accordingly he has been acquitted of the charges framed against him by giving the benefit of doubt.

After going through the entire record, this Court is of the considered view that the both the Courts below have recorded the valid reasons/grounds and rightly acquitted accused-respondent No.2 by extending the benefit of doubt, vide impugned judgments. Such judgments, containing valid reasons, cannot possibly be interfered with by this Court, in exercise of limited jurisdiction of this Court under Section 401 Cr.P.C., unless and until, the same are illegal, perverse and without jurisdiction. Accordingly, no interference is warranted in the impugned judgments of acquittal.

In the light of aforesaid reasons, as there is no merit, therefore, the present revision petition is hereby dismissed.

May 19, 2017
naresh.k

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No