

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR No. 3765 of 2015 (O&M)

Date of decision : 18-01-2017

\* \* \* \* \*

Veena Rani

.....Petitioner

Versus

Rajesh Kumar alias Mintu and others

.....Respondents

\* \* \* \* \*

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

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Present: Mr. Rishi Nijhawan, Advocate for the petitioner.

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**RITU BAHRI, J.**

**CRM No. 32929 of 2015**

For the reasons mentioned in the application, delay of 173 days in filing the present revision petition is condoned.

Application is allowed.

**CRR No. 3765 of 2015**

Present revision petition has been filed against the judgment dated 21.2.2013 passed by the Sub Divisional Judicial Magistrate, Guhla, whereby the accused were acquitted from the charges levelled against them in case FIR No. 9 dated 8.2.2008 registered under Sections 406/498-A/506 IPC at Police Station Guhla and the judgment dated 29.9.2014 passed by the Sessions Judge, Kaithal, whereby the appeal against the judgment of the trial Court filed by the petitioner has been dismissed.

Briefly stated, the facts of the case are that Veena Kumari filed a complaint on the allegation that she was married with Rajesh Kumar on 17.11.2007 at Village Guhla according to Hindu rites and ceremonies. At the time of her marriage, her parents spent huge amount of money beyond

their capacity and gave sufficient dowry articles as *Istri Dhan* to her and she entrusted the same to the accused. It was further alleged that accused Rajesh Kumar i.e husband of Veena Kumari, Gian Chand, her father-in-law and Kamlesh Rani mother-in-law were not happy with the complainant as well as the dowry articles given in marriage on the plea that the dowry articles were of inferior quality and are not according to their status. Her husband and in-laws harassed and tortured her on account of bringing insufficient dowry. Accused Rajesh Kumar and Gian Chand used to beat her at the instance of Kamlesh Rani. Veena Kumari stayed in her matrimonial house from 17.11.2007 to 25.11.2007 for the first time and during this period all the accused tortured her physically and mentally. They also threatened to kill her. On 26.11.2007, her father brought her to her parental home. She narrated everything to her parents and disclosed about the demands made by the accused. However, she was persuaded by her father saying that situation will improve gradually. On 2.12.2007, accused Rajesh Kumar and Gian Chand again brought her to matrimonial home and she remained there up to 25.12.2007. On 25.12.2007, Kamlesh Rani instigated accused Rajesh Kumar and Gian Chand who were already drunk to teach her a lesson for not bringing sufficient dowry. Kamlesh caught hold of her from her hair and accused Gian Chand caught hold of her arms whereas accused Rajesh Kumar gave her beatings with slaps kicks and dandas/stick mercilessly and thereafter turned her out of the matrimonial home. Thereafter, her father convened a panchayat for the peaceful settlement of her daughter in her matrimonial home but the accused refused to keep her. On 20.1.2008 again her father convened a panchayat consisting of Darshan Singh, Krishan and Jagdish etc. to settle her in the matrimonial

home but the accused flatly refused to keep her. It was further alleged that the accused misappropriated the dowry articles and converted the same into their own use without her consent and permission. It is further alleged that on 21.1.2008 she reported the matter to the police but they advised her to file the complaint. Hence the complaint for the commission of offences punishable under Sections 406, 498-A and 506 IPC was filed. On the basis of this complaint, the FIR was registered against the accused for the commission of offences punishable under Sections 406, 498-A and 506 IPC by ASI Wazir Singh.

After registration of the FIR, statements of the witnesses were recorded under Section 161 Cr.P.C. After completion of investigation, the challan was presented in the Court of learned Illaqa Magistrate for trial against accused Rajesh Kumar. During the trial, on an application moved by prosecution under Section 319 Cr.P.C, the trial Court summoned Gian Chand and Kamlaesh Rani as additional accused. They were charge sheeted for the commission of offences punishable under Sections 498-A/406, 506 read with Section 34 IPC on 6.7.2009. In order to prove its case, the prosecution examined six witnesses. Trial Court examined the accused under Section 313 Cr.P.C by putting to them the incriminating evidence of the prosecution appearing against them. Accused pleaded their false implication and innocence.

Prosecution Witness PW-1 Krishan Lal son of Sita Ram admitted in his cross-examination that he was not related to the complainant and his house was at a distance of 500 feet from the house of the complainant. However, they are of the same caste. He specifically stated that before marriage in his presence no conversation regarding dowry took

place. He further stated that accused and his family members attended the panchayat which took place on 1.1.2007. He further stated that the accused did not raise demand of dowry in his presence.

The complainant while appearing as PW-2, in cross-examination expressed her ignorance that the accused had raised a demand of dowry before marriage. She stated that the accused raised demand of dowry from 2.12.2007. She stayed in her matrimonial home w.e.f 17.11.2007 to 25.11.2007 and during this period she was given beatings but she did not get herself medically examined. She denied any medical test was conducted with regard to her pregnancy on 1.12.2007 and 12.12.2007.

PW-3 ASU Wazir Singh and PW-4 SI Dalel Singh were the official witnesses. PW-4, Dalel Singh carried out the entire investigation. PW-5, Om Parkash son of Sodagar resident of Samana testified that on 1.3.2008 , he produced tests reports (Ex.P-1 and Ex.P2) to the police and the same were taken into police possession vide recovery memo (Ex. PW-4/A). However, in the cross-examination, he stated that he knows Diksha Rani and her husband Rajesh Kumar. At the time of marriage, name of Diksha Rani was Veena Kumari. However, according to Hindu rites and the same was changed to Diksha Rani. He also stated that pregnancy tests of Diksha Rani were conducted two times i.e on 1.12.2007 and 12.12.2007 by Dr. Sanjay Sachdeva and the same were found to be positive.

PW-6 Sucha Singh, father of the complainant in his examination-in-chief supported the allegations of complaint (Ex.PW2/A) regarding the demand of a motorcycle and cash of Rs.50,000/- by the accused and that on account of demand of dowry, the accused used to harass and beat her daughter. However, in the cross-examination he stated that

before marriage, no demand of dowry was raised by the accused and the same was raised after two months of marriage.

Both the Courts have rightly observed that as per the case of the complainant, she was harassed and tortured to bring more dowry after 2.12.2007 and as per deposition of PW-6, Sucha Singh, father of the complainant, the demand was made after more than two months of the marriage. The marriage took place on 17.11.2007 and hence the demand of dowry could be raised only after 17.11.2007 as per PW-6. Hence with regard to demand of dowry itself, the statements of PW-2 Veena Kumari and PW-6 Sucha Singh i.e complainant's father are not consistent. Another fact which both the Courts have rightly taken into consideration is that the statement made by PW-5 i.e Om Parkash neighbor of Rajesh Kumar. Statement of PW-5 also got corroboration from DW-1, in whose house, admittedly panchayats were convened. He testified that he attended the marriage of the accused and that the family members of Rajesh Kumar did not raise any demand of dowry. Rajesh Kumar had disclosed to him that his wife was pregnant before marriage and in this background he got the pregnancy tests of his wife conducted which were found to be positive. He also stated that the name of the complainant was changed from Veena to Diksha. He also stated that Veena had admitted before the Panchayat that she was in love affair before marriage.

The prosecution in the present case has miserably failed to prove the allegation of demand of dowry. Even PW-2 Veena Kumari had admitted that during her stay in her in-laws house, they did not misappropriate her dowry articles and she had not taken the dowry articles on superdari. Thus, the ingredients of 406 IPC are not made out. In view of

the medical reports Ex. P-1 & Ex. P-2 coupled with the deposition of PW-5 and DW-1, the judgment of acquittal passed by both the Courts below does not suffer from any infirmity and misreading of evidence and does not warrant interference of this Court.

In view of all that has been discussed above, present revision petition is dismissed.

18-01-2017  
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( RITU BAHRI )  
JUDGE

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether reportable        | No  |