

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

Criminal Revision No.3770 of 2014(O&M)

Date of Decision: May 12 , 2017.

Reena Devi PETITIONER (s)

Versus

State of Haryana and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Arun Luthra, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

Mr. V.K.Gupta, Advocate
for respondents No.2 to 4.

LISA GILL, J.

The petitioner-complainant is aggrieved of judgment dated 15.11.2011 passed by the learned Chief Judicial Magistrate, Kaithal whereby accused-respondents No.2, 3 and 4 have been acquitted of the charges under Sections 406/498A/506 IPC against them as well as judgment dated 23.07.2014 passed by the learned Additional Sessions Judge, Kaithal whereby appeal preferred by the petitioner against the abovesaid judgment has been dismissed.

Brief facts of the case are that, FIR No.121 dated 13.10.2006 under Sections 406/498A/506 IPC was registered at the instance of the petitioner. It is averred by the petitioner that she was married with respondent No.2 on

02.12.2003. A sum of ₹4,00,000/- was spent by her parents on the marriage. Sufficient dowry was given for exclusive use of the petitioner, however her in-laws were not satisfied with the dowry given to her. She was subjected to ill-treatment and harassment at the hands of her in-laws due to this reason. Respondent No.2 i.e., the petitioner's husband demanded a sum of ₹1,00,000/-. Respondent No.4 i.e., the mother-in-law of the complainant demanded necklace and bangles of gold. Brother-in-law of the complainant (not proceeded against) also demanded the abovesaid dowry articles alongwith other accused. A sum of ₹50,000/- was given to respondent No.2 by her parents and he assured that he would live alongwith the petitioner peacefully and no demand of dowry would be raised in future.

However a month thereafter, she was again subjected to the same treatment. Respondent No.2 physically abused her and even tried to kill her by subjecting her to electric shocks. It is alleged that respondent No.3 i.e., her father-in-law tried to kill her by pouring kerosene on her and setting her afire. The complainant's mother-in-law, it is averred, attempted to kill her by poisoning her milk. However on all occasions, she was saved by the grace of the God. She was ultimately turned out of the matrimonial home in the month of September, 2004 while retaining all articles belonging to her. Respondents No.2 to 4 further threatened to kill her in case their demand was not fulfilled.

A Panchayat was held in September, 2006 at village Kaul. Accused respondents No.2 to 6 however did not agree to rehabilitate the petitioner until and unless their demands were fulfilled. They did not return her Istridhan.

The matter was allegedly reported to the police, but no action was

taken. Therefore, a complaint was submitted and action was taken under Section 156(3) Cr.P.C. Formal FIR was thereafter lodged. Final report under Section 173 Cr.P.C. was presented against all the accused persons for the commission of the offences punishable under Sections 406/498A/506 IPC to which they pleaded not guilty and claimed trial. Prosecution examined four witnesses. Accused in their statements under Section 313 Cr.P.C. denied all the incriminating evidence put to them. They pleaded innocence and false implication. Four witnesses were examined in defence. Documents Ex.D1 to D10 were tendered in evidence.

The learned Chief Judicial Magistrate, Kaithal after taking into consideration the facts and circumstances of the case as well as evidence on record, concluded that the prosecution has miserably failed to prove its case against all the accused persons, thereby acquitted them vide impugned judgment dated 15.11.2011. It is specifically held by the learned trial court that respondent No.2 – husband of the complainant, who was posted as a Constable with the Haryana Police at Panchkula, used to visit the village fortnightly. Respondent No.3, father-in-law of the complainant also in government service was posted at Pundri. The mother-in-law of the complainant i.e., respondent No.4 was an old lady, suffering from mental disorder. It is only the complainant and her mother-in-law who used to reside at the home in the village for most of the time. In fact, the complainant wished to reside with her husband at Panchkula, but it was not possible as there was none to look after her mother-in-law. This was the main reason for dispute between the parties.

It was thereafter noted that no details whatsoever are mentioned regarding the incidents wherein all the accused tried to kill the complainant.

Learned trial court held that commission of the offence punishable under Section 406 IPC is not proved as entrustment of the articles has not been proved. The articles mentioned were found to be ceremonial, to be used by all the members of the family.

The appeal preferred by the petitioner against the abovesaid judgment was dismissed by the learned Additional Sessions Judge, Kaithal vide impugned judgment dated 23.07.2014. Aggrieved therefrom, the present revision petition has been preferred by the petitioner.

Learned counsel for the petitioner vehemently argues that the ingredients of Section 498A/406 IPC are duly proved from the statements of the complainant and her father. The list of dowry articles clearly proves the entrustment of the articles. In case the specific time and date regarding the incidents where the respondents tried to kill the complainant are not given, the same cannot be held against the petitioner and does not detract from the veracity of the prosecution version. The police authorities, in fact, refused to register an FIR and the petitioner was constrained to approach the court for lodging of the FIR in question. The Panchayatnama, it is submitted, reveals that a dispute was definitely there between the parties. The petitioner, it is further submitted, was subjected to ill-treatment and harassment at the hands of respondents No.2 to 4 on account of insufficient dowry. Therefore, both the learned courts below have returned perverse findings leading to the wrongful acquittal of the accused respondents. It is thus prayed that this revision petition be allowed and respondents No.2 to 4 be convicted for the offences punishable under Sections 406/498A/506 IPC and punished accordingly.

Learned counsel for respondents No.2 to 4 refutes the abovesaid arguments while submitting that both the learned courts below have returned cogent and clear findings based on the evidence on record. No ground for interference in the same is made out. There is no reason whatsoever for interfering in the concurrent findings returned by the learned courts below. It is submitted that it is proved on record that respondent No.4 i.e., the mother-in-law of the complainant is suffering from a mental disorder. Reference is made to medical record Ex.D1 to D6. Reference is also made to the evidence of DW1 Dr. J.C.Bathla, Psychiatrist, Bathla Psychiatric Hospital, Karnal, DW2 Dr. Raksh Pal Sharma, MBBS, MD (Psychiatry), Aggarwal Nursing Home, Kurukshetra and DW3 Dr. Narender Pruthi, Psychiatrist, LNJP Hospital, Kurukshetra who have proved that the petitioner's mother-in-law was indeed suffering from a mental disorder. Learned counsel for respondents No.2 to 4 thus prays for dismissal of the revision petition.

I have heard learned counsel for the parties and have gone through the record with their able assistance

It is noticed that there is no evidence whatsoever to substantiate the allegations of an attempt by respondents No.2 to 4 to kill the petitioner. The petitioner in her deposition has even failed to give any date and time of the alleged incident/incidents in question. It is to be noted that there is no medical record in respect to any injury which may have been received by the petitioner at any point of time. The petitioner allegedly left the matrimonial home in August 2004 however the alleged Panchayat was held in the last week of September 2006 at village Kaul. The petitioner herself was not present in this Panchayat.

The petitioner's father PW2 stated that none of the villagers of village Kaul were present. PW2 stated that when the accused were questioned whether they are ready to rehabilitate the petitioner or not, they simply refused. It is correctly observed by the learned Additional Sessions Judge, Kaithal that from the statement of PW2, it is clear that no dispute regarding dowry was discussed in the said Panchayat. A perusal of the evidence on record clearly shows that the main dispute between the parties was that the complainant did not wish to live at village Kaul. She did not wish to look after her mother-in-law who was unwell. The complainant wished to live with her husband at Panchkula whereas respondent No.2, her husband insisted that she should live in the village so that his mother is looked after. He used to visit the village fortnightly. Respondent No.3, father-in-law was admittedly a government servant at Pundri. PW2 Jeet Singh in his deposition clearly stated that the petitioner was not taken to reside with her husband at the place of his posting and this was the main reason of dispute between the parties. PW3 ASI Balbir Singh, Investigating Officer of the case in his cross-examination deposed that there was difference of opinions between the petitioner and the accused husband in respect to the complainant not being allowed to live at Panchkula which further corroborates the stand of respondents No.2 to 4. It has been rightly observed by the learned Additional Sessions Judge, Kaithal that the allegations that the Investigating Officer had tried to help the accused persons, is not borne out from the record. Even a suggestion to this effect has not been put to the said witness.

Prosecution in this case has miserably failed to prove its case against the accused beyond all reasonable doubt. The accused have rightly been

acquitted by extending the benefit of doubt.

Learned counsel for the petitioner is unable to point out any illegality or infirmity apparent on record in the impugned judgments which call for interference by this Court in exercise of its revisional jurisdiction.

Accordingly finding no merit, this revision petition is dismissed.

May 12 , 2017.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No