

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

(1) CRR No.4135 of 2015 (O&M)

Sarabjit Kaur

...Petitioner(s)

Versus

Jagdhir Singh and others

...Respondent(s)

(2) CRR-4136 of 2015 (O&M)

Sarabjit Kaur

...Petitioner(s)

Versus

Gulzar Singh and another

...Respondent(s)

Date of decision: 11.12.2017

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. M.K. Bhatnagar, Advocate for the petitioner(s).

Jitendra Chauhan, J. (Oral)

The aforementioned two petitions are being decided by way of this common judgment, as the same have arisen out of the judgment/order.

The present revision petitions have been filed against the impugned judgment dated 21.07.2015, passed by Addl. Sessions Judge, Amritsar, whereby, the appeals filed against the judgment dated 20.10.2014, passed by Judicial Magistrate 1st Class, Amritsar, were dismissed, however, respondents Amrik Kaur and Gulzar Singh were

released on probation on their furnishing personal probation bonds in the sum of Rs.50,000/- each. Further, vide impugned judgment dated 20.10.2014, respondents Jagdhir Singh and Kanwaljit Kaur @ Sukhwinder Kaur (in CRR-4135-2015) were acquitted of all the charges and respondents (in CRR-4136-2015) were acquitted under Section 406 of IPC, however, they were convicted under Section 498-A of IPC and sentenced to undergo RI for a period of two years and ordered to pay a fine of Rs.1000/- each and in default of payment of fine, to further undergo simple imprisonment for a period of 10 days.

The short facts of the case are that the petitioner/complainant moved an application on 28.10.2007 to SSP (Rural), stating therein that her marriage was solemnized on 13.09.2005 according to Sikh rites at Amritsar. At the time of marriage, sufficient dowry articles were handed over to accused/respondents. After cohabitation, one female child was born on 14.07.2007 and soon after the marriage, accused persons started taunting the complainant/petitioner on one pretext or the other, however, the respondents were not satisfied with the dowry articles and ultimately, the complainant was turned out of her matrimonial home on demand of dowry articles. On 03.10.2006, the matter was compromised and on 14.11.2006, the petitioner was again turned out from the matrimonial home.

The accused were charged under Sections 406 and 498-A of IPC, to which they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution led its evidence

and has examined as many as eight witnesses. Later on, accused/respondents Jagdhir Singh and Kanwaljit Kaur were summoned under Section 319 Cr.P.C.

When examined under Section 313 Cr.P.C., the accused pleaded innocence and false implication and thereafter their defence evidence was closed by order.

After hearing learned counsel for the parties and perusing the evidence brought on record, learned trial Court acquitted the accused of the charges under Section 406 of IPC and convicted accused/respondents (in CRR-4136-2015) under Section 498-A IPC as stated here-in-above.

Feeling aggrieved, both the parties went in appeal before learned Appellate Court, which were also dismissed vide impugned judgment dated 21.07.2015. The State did not opt to file any appeal against judgment of acquittal.

Hence the present revision petition.

It is contended that learned Courts below erred in not appreciating the fact that the petitioner had produced necessary evidence in support of her case which was further corroborated by other witnesses. There are specific allegations against the respondents/accused with regard to demand of dowry, harassment and maltreatment. The Courts below have totally misread and misinterpreted the evidence on record while acquitting the jeth and jethani (respondents in CRR-4135-2015) despite the fact that all the accused had been living in the same house. The Appellate Court further erred in releasing the accused/respondents

Gulzar Singh and Amrik Kaur on probation merely on the ground of their being more than 65 years of age being senior citizen. All the accused/respondents have turned out the petitioner of her matrimonial home on account of demand of dowry but the Courts below have not taken into consideration the matter in right perspective.

Heard.

The marriage between the parties is not in dispute. The petitioner and co-accused Jagdish Singh cohabited as husband and wife and out of the wedlock, one child namely, Amritpreet Kaur was born on 14.07.2007. As per the allegations, the accused/respondents and co-accused Jagdish Singh started maltreating the petitioner/complainant on account of demand of dowry. As per testimony of the complainant, she was harassed at her matrimonial home to the extent that she had to leave the matrimonial home and thereafter, with the intervention of respectables, she again joined the matrimonial home. Further, as per the petitioner, accused/respondent Gulzar Singh was given motor cycle and gold ornaments etc, along with other members of the family. However, the petitioner has failed to bring on record the evidence to substantiate the factum of entrustment. The Investigating Officer was not examined by the prosecution. Therefore, the learned Courts below have rightly acquitted the accused of the charge framed under Section 406 of IPC. Moreover, accused/respondents in CRR-4135-2015 were summoned as additional accused and no substance was found against them and they were acquitted from the charges. In **Preeti Gupta and another** Vs. **State**

of Jharkhand and another, 2010(7) SCC 677, Hon'ble the Supreme

Court has held as under:-

“33. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy.

Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society."

Parents in-law, Gulzar Singh and Amrik Kaur have already faced the agony of trial since the FIR was registered on 28.12.2007, therefore, they were released on probation considering their old age by the Appellate Court. The conviction of main accused i.e. husband Jagdish Chand under Section 498-A of IPC has already been affirmed by the Appellate Court.

In view of the above facts and circumstances of the case, this Court finds no merit in the present revision petitions which are hereby dismissed.

11.12.2017
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable:	Yes	No