

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

**Crl. Appeal No. S-2012-SB of 2007
Date of decision : 21.02.2018**

State of Haryana

... Appellant

versus

Surinder Singh & Ors.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. Arun Kumar, AAG Haryana, assisted by
Mr. Rishan Lohan, Advocate for
Mr. R.N. Lohan, Advocate
for the complainant.**

**Mr. Sudhir Sharma, Advocate and
Mr. Ram Krishan Rana, Advocate
for the respondents.**

ANITA CHAUDHRY, J.

State has laid challenge to the judgment of acquittal recorded by the Addl. Sessions Judge, Jind, in respect of respondents Surinder Singh, Devinder Singh, Yoginder Singh and Kaushalya, though they were convicted by the trial Court under Sections 406 and 498-A IPC.

The facts necessary for the disposal of the case are noticed first.

Appellant Surinder Singh was married to Kiran on 17.03.1996 at Jind. It appears that the couple could not adjust with each other. FIR No. 275 dated 15.05.1997 was registered at the instance of Kiran against husband Surinder Singh, mother-in-law Kaushalya and brothers-in-law Devinder and Yoginder. The allegations were that dowry, as per the capacity, was given by her father in the marriage and Rs.2 lacs were given to mother-in-law to purchase the household articles, but the accused

misappropriated it. She was given beatings and maruti car was demanded. She was kept for three days at her matrimonial home and sent back to her parental home. She told her brother, father and uncle about the demand. In October, her husband came to pick her and on reaching the matrimonial home, she was again beaten and abuses were hurled upon her by the accused and demand of car was reiterated. On 15.10.1996, she was left at bus stand, Jind by her husband. She remained there for six months and her in-laws did not care for her during this period. On 13.04.1997, they came to the matrimonial home and made the accused understand, but they stuck to their demand of car and her dowry articles and jewellery was retained.

It is apt to mention here that Kiran had committed suicide on 19.08.1998. On the basis of complaint made by Kanwar Singh, father of Kiran, FIR No. 523 dated 27.08.1998 was registered against Surinder Singh, under Section 306 IPC at Police Station City, Jind. It was gathered from the records of connected Crl. Appeal No.S-541-SB of 2002, filed by Surinder Singh against his conviction under Section 306 IPC, that in April, 1997 a petition under Section 9 for restitution of conjugal rights was filed by appellant Surinder Singh and the wife had also filed a divorce petition on 12.11.1997.

Final report was submitted against husband Surinder Singh, Smt. Kaushalya, the mother-in-law and brothers-in-law Devender Singh and Yogender Singh. Charge under Sections 406 and 498-A IPC was framed. At the trial, the prosecution had produced three witnesses, namely, Kuldeep Singh, PW2 Dharam Singh and PW3 Kanwar Singh, the brother, uncle and father respectively of Kiran.

The incriminating circumstances led by the prosecution were

put to the accused in their statements under Section 313 Cr.P.C., which were adjured. No evidence in defence was led.

On appraisal of the evidence produced on record, the trial Court held all the four accused guilty under Sections 406 and 498-A IPC. They were sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.500/- each under the first head. In default of payment of fine, they were directed to undergo simple imprisonment for one month. Under the second head, they were sentenced to undergo rigorous imprisonment for one year with a fine of Rs.500/- each, in default whereof simple imprisonment for one month was awarded.

Dis-satisfied with the same, the accused preferred an appeal before the Appellate Court below and vide order dated 03.04.2006 their appeal was allowed and they were acquitted.

I have heard learned State counsel assisted by counsel for the complainant and learned counsel for the respondents and have gone through the records carefully.

Learned counsel for the appellant had urged that the Appellate Court had misread and mis-interpreted the evidence and had wrongly set aside the well reasoned judgment of conviction recorded by the trial Court. They had submitted that all the three prosecution witnesses had fully supported and it was proved beyond reasonable doubt that Kiran was harassed and maltreated by the accused for demand of cash and a car and the amount given for purchase of household articles was misappropriated. According to them, Kiran had died during pendency of the case and all the three witnesses examined by the prosecution deposed in so many words about the cruel treatment meted upon Kiran. It was urged that the judgment

of trial Court is liable to be restored. They had referred to **Chandrappa & Ors. Vs. State of Karnataka, 2007(2) RCR(Crl.) 92, Murugesan & Ors. Vs. State through Inspector of Police, 2013 AIR(SC(Crl.) 126 and Ramesh Harijan Vs. State of UP 2012(4) Recent Apex Judgments, 218.**

Learned counsel for the respondents had urged that the Appellate Court below has rightly appreciated the evidence and acquitted the respondents. There was no evidence to prove the demand and payment of dowry and harassment for dowry. According to them, unless and until there are exceptional circumstances and the judgment is found to be perverse, only then the appellate Court can interfere with the order of acquittal. They had relied upon **S. Anil Kumar @ Anil Kumar Ganna Vs. State of Karnataka 2013(3) SCC(Crl.) 289.**

It is evident that the allegation of the prosecution was that the accused misappropriated a sum of Rs.2 lacs which had been given to purchase the household articles and Kiran was harassed and maltreated for demand of car. As earlier noted, Kiran had died before her statement could be recorded. At the trial, the prosecution had produced three witnesses, namely, Kuldeep Singh, Dharam Singh and Kanwar Singh, the brother, uncle and father respectively of the deceased as PW1 to PW3. They were not the witnesses to the alleged demand or harassment and it was hearsay. They claimed that Kiran told them about the mis-deeds. Their statements were found to be discrepant about the time and to whom the amount was handed. In the complaint, on the basis of which FIR was lodged, Kiran had alleged that the amount was handed to her mother-in-law, but her brother Kuldeep when stepped into the witness-box had stated that Rs.2 lacs had been delivered to accused Surinder, Devinder, Yoginder and Kaushalya at

Jind and later changed the stand and testified that his father had paid the sum of Rs.2 lacs to accused Surinder, Yoginder and Devinder and not to accused Kaushalya on the day of wedding. In his cross-examination, he showed his ignorance whether Kaushalya was present in the marriage or not. On the other hand, PW2 Dharam Singh, uncle of Kiran had stated that the amount was paid to Surinder, Devinder, Yoginder and Kaushalya at Jind after two days of the wedding. Kanwar Singh, the father of Kiran had narrated an altogether different version and had stated that the amount was paid to all the four accused, two days prior to the marriage. The source of funds was not proved on record, i.e. the withdrawal of such a huge amount by the complainant. It has come on record that complainant Kanwar Singh was Government Officer. He was posted as BDPO in Panchayat Department and the accused Surinder Singh was J.E. in the same Department. Kanwar Singh had married his two daughters on the same day and claimed that he had spent Rs.2 lacs for each marriage, which was readily available with him. It had come on record that Kanwar Singh was the sole earner of the family. He ought to have produced the proof from where a sum of Rs.4 lacs was arranged. Kanwar Singh had not disclosed to the police about the demand of car and beatings by the accused and had stated it for the first time in the Court. The deceased had a short stay at her matrimonial home that too at different intervals. The FIR was lodged after about fourteen months of the marriage. It was not shown that any complaint about misappropriation of demand of dowry was made. No medical evidence had been produced on record regarding the alleged beatings by the accused. It was claimed that respectable persons were taken to the house of the accused, but none from them had been examined. The evidence produced on record by the

prosecution was found untrustworthy and rightly discarded so far as the allegations of demand of dowry, car and misappropriation of Rs.2 lacs, were concerned. The judgments referred by the State, namely, Chandrappa, Ramesh Harijan and Murugesan (supra) are of no help. No fault can be found with the approach of Appellate Court below in acquitting the respondents of the charges under Sections 406 and 498-A IPC. In **Rohtash Vs. State of Haryana, 2012(6) SCC 589**, the Hon'ble Apex Court held that only in exceptional cases where there are compelling circumstances and where the judgment in appeal is found to be perverse, the High Court can interfere with the order of acquittal.

The appeal filed by the State is dismissed as it is without merit.

February 21,2018

Jiten

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No