

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-117-MA of 2016

Date of decision : October 16, 2018

Deepika

....Applicant

versus

State of Haryana and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Hemant Bassi, Advocate for the applicant

Fateh Deep Singh, J. (Oral)

In this application for leave to file appeal, the applicant Deepika who happens to be wife of respondent no. 2-Rakesh, latter son of respondent no. 3 Sohan Lal got registered a criminal case bearing FIR No. 152 dated 6.3.2014 under Sections 498A, 406, 506, 120B, 376, 511 IPC, registered with Police Station Civil Lines, Hisar.

The allegations levelled by the complainant are that she entered into a wedlock with Rakesh in the month of February, 2006 and at the wedding her parents spent a sum of Rs 25 lacs and thus gave sufficient dowry commensurate with their status. It is alleged that her father-in-law was not happy with the same and in the month

of March, 2006 had asked her to make a telephonic call to her uncle for a demand of new Honda City Car or in its place cash amount of Rs 15 lacs. The complainant has alleged that her sisters-in-law Shakuntla and Indrawati also raised demands of dowry and used to criminally intimidate her and that thereafter her husband joined his duties in Gurgaon. The allegations of the complainant further are that when her husband had gone to Gurgaon, her father-in-law Sohan Lal respondent no. 3 started misbehaving with her and even tried to commit rape upon her and after intervention of the relatives she was sent back to Gurgaon where she lived happily. It was in March, 2009 her husband left her at Hisar, the parental house of the complainant where in April, 2009 she gave birth to twins and remained for six months at her parents house and came back to Gurgaon on 28.11.2011. It is claimed that at the marriage of her brother, she was again tortured for bringing articles and physically abused by the accused and in between on March 22, 2012 demand of money was made to enable them to buy a plot and thereafter she was thrown out of her matrimonial home.

It was during the course of investigations, Shakuntla and Indrawati, both married sisters of the husband of the complainant were found innocent and challan against Rakesh husband and Sohan Lal, father-in-law was filed in the court. Finding prima facie

case, charges under Sections 498-A, 406, 506, 376 read with Section 511 IPC were framed to which the accused pleaded not guilty and claimed trial.

The prosecution at the trial examined the complainant as PW1, Ramphal father of the complainant PW2, Raghubir Singh uncle of the complainant PW3, Raj Kumar PW4, Dr. Dharmender PW5, Inspector Bimla Devi PW6, Sub Inspector Raghubir Singh PW7 and thereafter the evidence was closed.

The accused denied the allegations in the stand taken under Section 313 Cr.P.C. claiming that the complainant was suffering from mental illness and was in a state of depression and often used to leave her matrimonial home on her own and on different occasions Panchayats were convened to settle the issues but to no avail. In their defence, the accused examined DW1 Shishpal and Dr. Bharat Bhushan DW2. It was through the impugned findings dated 17.11.2015, the court of learned Additional Sessions Judge-cum-Special Court for Heinous Crime Against Women, Hisar acquitted the accused of the charges and that is how the present matter has come about.

Upon hearing Mr. Hemant Bassi, counsel for the applicant and on perusal of the records. It is the golden principle of criminal jurisprudence that onus lays heavily upon the prosecution to prove

its case beyond shadow of reasonable doubt. The allegations that have come up from the complainant against the entire family were found unpalusible and only challan against the husband and father-in-law was filed whereas other accused were found as innocent. Though the complainant wife had examined Dr. Dharmender PW5, Incharge of Sai Hospital, Sirsa who has testified that on 6.6.2012, the complainant was admitted in the hospital till 8.6.2012 and she was suffering from psychotic problem and therefore, her testimony needs to be materially corroborated from other evidence brought on the record. The first charge against the accused pertained to one under Section 406 of the IPC. It is quite evident from the allegations of the complainant and her witnesses as to any specific entrustment of the articles of Ishtri Dhan to any of the accused and demand of return of the same and their refusal and therefore, in the absence of any specific entrustment and commission of breach of trust by way of misappropriation of the Ishtri Dhan of the complainant such allegations do not bear much weight and Mr. Bassi on the very query of the Court could not pin point any of these necessary ingredients to romp with these charges.

The allegations of cruelty levelled by the wife against her husband and father-in-law shows that first demand of dowry came after the marriage which took place in February, 2006 and it was on

3.3.2006 the allegations of first demand of dowry came about by way of Honda City Car or cash of Rs 15 lacs and which have been alleged to have been demanded by the accused from the uncle of the complainant. The allegations that come about is demand of cash for purchasing house which were apparently not linked with the marriage and could never be termed to be in lieu of this marriage and the third demand had come about after marriage of brother of the complainant which took place on 28.11.2011 and thus a yawning gap between various demands rather reflects the unplausibility of the version of the complainant who was having twins and the complaint has come about after 8 years of the marriage. It is quite difficult to understand how till the year 2014, the complainant had kept silent and lived happily in her matrimonial home and during that period had carried on with her academic qualifications, jobs etc and after her return from Hisar she claims to have lived for two years with her husband in Gurgaon along with the kids. Though the claimant claims that she was given beatings in June, 2012 but nothing concrete has been brought to the notice of the Court in the evidence of any such complaint having been lodged or medico legal examination to corroborate this fact. Even otherwise the allegations of attempt to rape by a 70 years old father-in-law that too in the own house where others too are living and which has come up after 8 years of the

alleged incident certainly puts the Court on its guard to scrutinize the evidence with more care and caution and to rule out any motivated cause for the same. It is there in the evidence as has come that the husband much earlier had filed a petition under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights which is evident from Ex. DC and it is subsequent thereto the complaint has been brought about by the wife obviously aimed as a counter blast to settle the scores. From the evidence oral as well as documentary, the learned counsel for the applicant could not pin point any illegality or perversity that has come across in the findings under challenge and the same is perfectly in consonance with the evidence led on record as well as factual and legal position. Thus no cause for this Court to show interference is made out. The application for leave to file appeal is not sustainable and the same as such stands dismissed.

October 16, 2018
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(Fateh Deep Singh)
Judge

<i>Whether speaking/reasoned ?</i>	Yes/No
<i>Whether Reportable ?</i>	Yes/No