

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

Crl. Misc. A 1585 MA of 2015 (O&M)
Date of decision: 10.1.2018

Anu

...Appellant

Versus

Sandeep Ohri and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rajeshwar Singh, Advocate
for the applicant/appellant.

JAISHREE THAKUR, J.

The complainant/applicant has filed the instant application under Section 378 (4) of the Code of Criminal Procedure (for short '**the Code**') for grant of leave to appeal against the judgment dated 30.7.2015 passed by the learned Judicial Magistrate 1st Class, Gurdaspur, vide which the complaint filed under Sections 498-A and 406 IPC has been dismissed and the respondents have been acquitted of the charges as framed against them.

The facts giving rise to the present case are that the complainant—Anu and Sandeep Ohri—respondent No.1 got married on 20.7.2007. It is alleged that in the marriage sufficient dowry was given. However, since the accused were not satisfied with it they started torturing the complainant from the very beginning and demanded a sum of ₹5 lakh in cash and one Esteem car. It is alleged that on 17.4.2008, the father of the complainant—

Kundan Lal gave ₹50,000/- to the husband of the complainant, namely Sandeep Ohri, in the presence of the other accused. On 12.5.2008, the complainant wrote a letter to her father and then her brother Rakesh Sony, after withdrawing a sum of ₹80,000/- from his bank account, handed over the same to Sandeep Ohri on 25.5.2008, in the presence of other accused. It is alleged that despite making aforesaid payments, the accused used to harass and maltreat the complainant. Ultimately, the complainant was turned out from the matrimonial home on 29.6.2008, after giving severe beatings to her for not meeting the demand of dowry and since then she is living with her parents at Gurdaspur.

In support of the allegations, the complainant in pre-charge evidence examined herself as CW-1 and also got examined her father Kundan Lal as CW-2, Manager of HDFC Bank Amit Mahajan as CW-3, official of Punjab National Bank, Gurdaspur, Mohinder Pal as CW-4, Photographer Rakesh Kumar as CW-5 and Pujari Radha Raman as CW-6 and closed the pre-charge evidence.

Finding prima facie case, the respondents were charge-sheeted for the offence under Sections 498-A and 406 IPC. Thereafter, statements of the respondents were recorded in terms of Section 313 of the Code, to which they pleaded their innocence and claimed false implication.

After hearing learned counsel for the parties as well as going through the record, the trial court acquitted the respondents, as already noticed.

Learned counsel for the applicant/appellant submits that the

complainant's witnesses have duly supported the averments made in the complaint and the charges as framed against the respondents stand proved on record. It is submitted that from the evidence brought on record, it is clear that the respondents committed the offence of cruelty against the complainant by raising dowry demands and they even misappropriated the *istridhan* articles given to the complainant in the marriage. It is, therefore, prayed that for the reasons stated in the grounds of appeal, this application seeking leave to appeal be allowed and leave be granted to file the appeal.

I have heard learned counsel for the applicant/appellant and have gone through the impugned judgment.

It is alleged by the complainant that on 29.6.2008, she was beaten by the respondents and was thrown out from her matrimonial home, but she failed to attribute a specific role to each of the accused in causing beating to her. In fact in her examination-in-chief, she failed to prove the allegations so made. Rather the complainant has made omnibus allegations regarding demand of dowry. Similarly her father Kundan Lal made unspecified allegations of torture, harassment and physical beatings given to the complainant without specifying any date, month or year. No evidence was produced to suggest that she had been medically examined after alleged beatings. On one side the complainant claims that she was thrown out from her matrimonial house on 29.6.2008 after giving severe beatings, whereas in her cross-examination in pre-charge evidence, she has admitted that on 29.6.2008 her parents came to her matrimonial home and took her along with them to their home at Gurdaspur. Admittedly, it was second marriage of

the complainant and accused Sandeep Ohri and the Pandit, Randha Raman, who was examined as CW-6, admitted that he performed the ritual of the marriage, but there is not even a single word in his examination-in-chief to suggest that any dowry articles such as gold ornament, as alleged, were entrusted by the complainant to the accused in his presence. Thus, no evidence was produced to prove the entrustment of any dowry to the accused.

So far as the allegations of payment of ₹50,000/- and ₹80,000/- given to husband—Sandeep Ohri, are concerned, the same could not be believed for the reasons that the complainant herself in her cross-examination showed her ignorance regarding source of the said amount. CW-2 Kundan Lal first stated that the money was delivered to Sandeep Ohri in the presence of other accused at their house, however, after charge evidence he specifically stated that the payment was made when Sandeep Ohri was alone at home. No document was produced to show that the amount of ₹50,000/- was fixed in the name of Sandeep Ohri. Similarly to prove the payment of ₹80,000/-, the complainant's brother Rakesh Sony, who allegedly withdrew the money from his bank was not examined. Thus, the demands of dowry as alleged, were not proved. The trial court, while acquitting the respondents observed as under:-

“...It is specifically mentioned here that the complainant has not stated even once that she had ever approached to police regarding dowry demand on the part of present accused before filing the instant complaint. In her cross-examination, she had

specifically admitted that she had never reported the matter of dowry demand to the police. Hence, without reporting the matter to police, complainant has filed instant complaint. Rather this fact raises suspicion on the trustfulness of complainant's case. Further, admittedly, accused Geeta Rani was already married at the time of marriage of Anu with Sandeep Ohri and in the given facts of this case, it seems that she was also roped in without any reason or rhyme.

It is also specifically mentioned here that there is particular allegation of demand of Rs. 5 lacs cash and Esteem car by accused Sandeep Ohri. However, complainant Anu has categorically admitted in her cross-examination that Sandeep Ohri was already having a Swift car in the year 2007 of his own. Further, it is matter of common knowledge that manufacturing of Esteem car was stopped by Maruti Suzuki Company, which was manufacturer of Esteem, in the year 2004/05. So, how it can be expected from a person, who was having latest car to demand for old car, which too was stopped being manufactured. Hence even the demand of Esteem car does not appeal to common sense.”

Thus, the findings recorded by the trial court cannot be held to be perverse or against law. Nothing has been pointed out as to which material evidence has been misread or as to which material evidence has not been considered by the trial court. Rather, perusal of the judgment shows

that the findings are correct and the evidence brought on record has been considered in its correct perspective. The accused have been rightly acquitted by the trial court.

For the reasons stated above, I do not find any ground to grant leave to file appeal. Therefore, finding no merit in the application filed under Section 378 (4) of the Code seeking leave to appeal is dismissed.

10.1.2018
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No