

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

Crl. Misc. No.A-541-MA of 2014(O&M)

Date of Decision: 10.12.2018

Pardeep Kumari

.. Applicant

Vs.

Sumer Singh

.. Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. Sanjeev Kumar, Advocate
for the applicant.**

**Mr. Rajesh Bansal, Advocate
for the respondent.**

ANITA CHAUDHRY, J.

The applicant is seeking leave to challenge the judgment dated 24.02.20912 by virtue of which the trial court has ordered acquittal of respondent.

FIR No. 439 dated 06.12.2002 was registered at the instance of applicant against the husband Sumer Singh-respondent and parents-in-law and sister-in-law. It was alleged that her marriage took place on 02.11.1991 and sufficient dowry was given in the marriage. She mentioned the articles, jewellery and cash which was given to the accused. It was her case that the accused were not satisfied with the dowry given and she was harassed by them. She was turned out of the house after giving beatings. The accused did not mend their ways despite intervention of Panchayat.

After investigation, cancellation report was filed in the matter. Protest petition was filed and the complainant was asked to lead her evidence.

The complainant examined herself as PW1 besides examining her brother and father as PW2 and PW3 respectively.

All the four accused were summoned. The parents-in-law and sister-in-law were discharged while charge under Sections 406 and 498-A IPC was framed against the respondent.

In his statement under Section 313 Cr.P.C. the accused abjured the trial. He produced four witnesses in defence.

On conclusion of trial, the court below observed that the prosecution had failed to prove its case against the accused beyond shadow of reasonable doubt and recorded his acquittal.

Dis-satisfied with the same, the complainant filed a revision petition before the Court below, which was lateron withdrawn and the instant application challenging the judgment of the trial Court has been filed.

I have heard learned counsel for the parties and have carefully gone through the records of the case.

From a perusal of record, it is evident that some cash amount in *shagun* and gold ring and 35 grams of gold ornaments were stated to have been given in the marriage to the respondent. The same does not constitute *istridhan* as it were traditional gifts given in the marriage. Apart therefrom, there was no specific mention about handing the other items to the respondent. It was mentioned in general terms that the house-hold items were given to the accused without specifying which items was given to whom. It was not mentioned that said articles were given to the accused on their demand. Interestingly, the complaint was filed after about eleven years of marriage. The same were of daily use and it cannot be believed that for

all these long years the same were not given to the complainant.

There was no specific instance of cruelty mentioned by the complainant. No date and time was mentioned when the demand was raised by the respondent. No medical evidence was produced by the complainant with regard to the alleged beatings. It was not shown whether she had made any complaint to the police after the marriage till 2002. The allegation of giving the cash amount to the respondent in the year 1999 were found to be false. A Panchayat decision dated 24.10.2000 (Ex.DX) was produced by the respondent, wherein also it was found to be a case of bickerings and allegation of demand of dowry was found false. The said writing was proved by DW1 Raj Kumar. It was signed by the complainant, her brother and father. Though, her father denied having knowledge about the contents, but it was found that he was a retired police official and took the stand only to wriggle out therefrom. The complainant and her brother and father were brought in the witness-box and no independent witness was produced. The FIR lodged by the complainant was found to be false and it was found to be a case of temperamental differences between the couple. The respondent had also filed a divorce petition against her.

The trial Court had elaborately discussed the facts and evidence and had given reasons in para Nos.12 to 14 of the judgment to disbelieve the prosecution case. The findings returned are based on correct appreciation of evidence.

The High Court ought not to interfere with the order of acquittal unless the judgment of acquittal is perverse or highly unreasonable as held in **Vimal Singh Vs. Khuman Singh, 1998(4) RCR(Crl.) 423**. In the instant case, the judgment of acquittal rendered by the Court below is

neither perverse nor unreasonable and it cannot be said that the court based its findings on irrelevant or inadmissible evidence. In the circumstances, the application for leave to appeal is dismissed.

December 10, 2018

(ANITA CHAUDHRY)

Jiten

JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No