

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

Crl. Misc. M-41391 of 2018 (O&M)
Date of Decision: November 16, 2018

Rajveer Kaur

...Petitioner

Versus

Ramanpreet Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Gursimran Singh Madaan, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

1. The instant petition has been filed seeking to challenge the order dated 28.08.2018 passed by the learned Additional Sessions Judge, Jalandhar in CRR No.526 of 2017 vide which the summoning order dated 07.09.2017 passed by the learned Judicial Magistrate Ist Class, Nakodar, District Jalandhar in COMI 54 of 2016 titled as “Rajveer Kaur vs. Ramanpreet Singh etc.” has been set aside.

2. In brief, the facts leading to the instant petition are that, a marriage was solemnized between petitioner and respondent No.1 on 12.12.2015 as per Sikh rites and ceremonies, however, soon after the marriage, the respondents started harassing and humiliating the petitioner for want of dowry, regarding which a representation was made to the police, but no action was taken. Thereafter, the petitioner preferred a private

complaint, in which after recording the pre-summoning evidence, by an order dated 07.09.2017, the respondents were ordered to be summoned to face trial under Sections 406, 498-A, 506, 120-B of Indian Penal Code by the Judicial Magistrate Ist Class, Nakodar. Aggrieved against the said summoning order, the respondents herein preferred a revision petition, which came to be allowed by the Additional Sessions Judge, Jalandhar on 20.08.2018 and the aforesaid summoning order dated 07.09.2017 was set aside, with a direction to the trial court to pass a fresh order. Aggrieved against the said order dated 20.08.2018 passed in the revision, the petitioner has preferred the instant petition.

3. Learned counsel appearing on behalf of the petitioner contends that the revisional court has failed to consider the fact that for the purpose of summoning, only prima facie case is to be seen. It is argued that the Judicial Magistrate Ist Class, Nakodar passed the summoning order dated 07.09.2017 by giving detailed reasoning showing its satisfaction that a prima facie case under Sections 406, 498-A, 506, 120-B of Indian Penal Code has been made out.

4. I have heard learned counsel for the petitioner and have also gone through the pleadings of the case.

5. The learned Revisional Court, while setting the summoning order dated 07.09.2017, has observed as under:-

“13. xxxx xxxx xxxx. The giving of a gold kara and gold ring to Chanan Singh, a gold set to Balwinder Kaur, a gold kara, gold ring and gold chain to Ramanpreet Singh, a pair of ear rings to Jaspreet Kaur does not amount to entrustment of dowry articles as these are the customary

gifts given to them at the time of marriage of complainant Rajveer Kaur with accused Ramanpreet Singh and not as dowry articles/istridhan of Rajvir Kaur. None of the dowry article was entrusted to any of the accused as per the list of dowry articles. Learned trial court did not go through the ingredients of offence punishable under Section 406 of IPC and committed an error by summoning all the accused under Section 406 of IPC also, though neither specific dowry article was entrusted to any of the respondent/accused nor they have misappropriated any dowry article as per the allegations of the complainant in the complaint itself.

14. Though no allegation regarding demand of any particular dowry was raised against the accused by the complainant in the complaint, but she has alleged that immediately after the marriage on account of less dowry, she was tortured both mentally as well as physically and they (accused) started harassing the complainant. In order to make out a case punishable under Section 498-A IPC complainant/prosecution was required to allege and prove that the accused being husband and the relatives of the husband of the complainant subjected her to cruelty with a view to coerce her to fulfill their illegal demand of dowry. The cruelty means both mental and physical cruelty. The learned trial court was required to go through the ingredients of the offence for which the revisionist/accused were ordered to be summoned to face trial as in order to issue process against the respondents/accused to face the trial, the learned trial court was required to hold that there are sufficient evidence to issue process against accused for the said offence.”

6. While recording the aforesaid observations, the learned

Revisional Court set aside the summoning order, with the direction to the trial court to pass a fresh order after going through the ingredients of the offence for which the revisionists/accused would be liable to be summoned to face trial.

7. After going through the copy of the complaint filed by the petitioner before the JMIC Nakoar, statements recorded in pre-summoning evidence and the summoning order passed, this court finds nothing wrong in the order dated 20.08.2018 passed by the learned Additional Sessions Judge, Jalandhar in revision.

8. In view of the above, the petition in hand is hereby dismissed.

November 16, 2018
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No