

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 1126 of 2011 (O&M)

Date of decision : 20.7.2018

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Sukhwinder Lal

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr.Hitesh Sood, Advocate
for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General,
Haryana.

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H. S. Madaan, J.

This revision petition is directed against judgment dated 5.5.2011 passed by Additional Sessions Judge, Kurukshetra, vide which he had dismissed the appeal filed by the petitioner accused against judgment dated 18.5.2009 and order dated 22.5.2009 passed by Judicial Magistrate Ist Class, Kurukshetra, vide which he was convicted and sentenced. The accused-revisionist prays that the revision petition be accepted, the judgments passed by the Courts below be set aside and he be acquitted of the charge framed against him.

Briefly stated, facts of the case are that Santosh Devi – complainant had filed a complaint against her husband – accused Sukhwinder Lal and father-in-law Prem Chand in the Court Judicial Magistrate, Kurukshetra, which was sent to Police Station Babain, under Section 156 (3) Cr.P.C. and was received there on 16.2.2001, on the basis of which formal FIR Exhibit PW-1/A was recorded there. Inter alia in the complaint, complainant Santosh Devi had contended that she was married with accused Sukhwinder Lal on 28.4.1996, as per Hindu rites and ceremonies at village Sanghore. Thereafter, the couple started residing together at village Mirzapur. The marriage was consummated, however, no child was born, that after the marriage Sukhwinder Lal – husband and Prem Chand – father-in-law of the complainant started harassing and maltreating her, asking her to bring more dowry from her parents; that the complainant could not oblige them, then she was harassed and tortured; that parental family of the complainant had met some demands of the accused but even then they were not happy; that in the month of August 1999, when Sushil Kumar, brother of the complainant visited the matrimonial home, he was beaten up by both the accused, raising demand of money; that when Brij Mohan, another brother of the complainant came to see her in the matrimonial home, then too they misbehaved with him and abused him; that on 20.8.1999, Sukhwinder Lal tried to kill the complainant by strangulating her; that on 23.2.2000, she was turned out of the matrimonial home. She had to fall back upon her parents. The accused had retained all her *istridhan* articles, rather misappropriating the same. Several Panchayats were convened. The

accused neither rehabilitated the complainant in the matrimonial home nor returned the *istridhan* articles. The complainant had reported that matter to the police but no action was taken against them. Thereafter she had filed the complaint in the court of law.

After registration of the FIR, the matter was investigated. Statements of the witnesses were recorded. The accused were arrested in this case. Some of the dowry articles of the complainant were recovered.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan in the Court, copies of the documents relied upon therein were supplied to the accused free of cost, as provided under Section 207 Cr.P.C. After going through the record and then finding a prima facie case, charge for offences under Sections 406, 498-A IPC read with Section 34 IPC was framed against the accused, to which they pleaded not guilty and claimed trial.

The case was fixed for evidence of prosecution, during the course of which the prosecution examined PW-1 ASI Mahavir Singh, PW-2 Santosh Devi, complainant, PW-3 Sushil Kumar, PW-4 Mohan Lal, PW-5 Mohan Lal, PW-6 Ram Karan, PW-7 Ajaib Singh, PW-8 Sukhdev Singh SI and thereafter evidence of the prosecution stood closed.

Statements of accused were recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing against the accused were put to them, but they denied the allegations

and raised the plea that they have been falsely involved in this case. In their defence evidence, they tendered copy of complaint Exhibit D1, copy of order dated 19.9.2008 Exhibit D2, copy of order dated 15.12.2003 Exhibit D3, copy of petition dated 8.1.2008 Exhibit D4, copy of order dated 10.11.2008 Exhibit D5, photographs of complainant Exhibit D6, copy of order dated 8.9.2008 Exhibit D7 and copy of order dated 19.8.2008 Ex. D-8.

After hearing the arguments, the trial Court convicted the accused Sukhwinder Lal for an offence under Section 498-A IPC observing that prosecution had prove entrustment of *istridhan* and refusal of accused to hand over those articles on demand. Both the accused had been acquitted of charge framed for offence under Section 406 IPC. Accused Prem Chand was not found to have committed offence under Section 498-A IPC even. Whereas charge for offence under Section 498-A IPC was found to have been established against Sukhwinder Lal, as such he was held guilty for said offence, vide judgment dated 18.5.2009 and vide order dated 22.5.2009, he was sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/-, in default of payment of fine, to undergo further simple imprisonment for a period of 15 days.

The accused convict had preferred an appeal before the Court of Sessions, but was unsuccessful there, as such he has approached this Court by way of filing the present revision petition, notice of which was given to the respondent State, who put in appearance.

I have heard learned counsel for the revisionist, learned State counsel, besides going through the record and I find that there is no merit in the revision petition. It is well settled that scope of revisional jurisdiction of this Court is quite limited and the Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment under challenge. This is not the case here.

In the instant case, the prosecution examined in as many as 8 witnesses. PW-2, Santosh Devi, complainant narrated her tale of woes on oath, categorically stating that after a few days of her marriage, which was solemnized on 28.4.1994, accused persons started bearing her and demanded motorcycle and Rs.50,000 cash. She stated that a box, almirah, chair, table, sofa set, other household articles and gold ornaments had been given to her husband and father-in-law which are in their possession. She further narrated the amounts given in cash by her parents to the accused. She proved her complaint Exhibit PA, list of articles Exhibit PB and list of witnesses Exhibit PC.

PW-3 Sushil Kumar brother of the complainant supported the case of prosecution on all material aspects, as regards accused beating his sister and demanding dowry. They gave Rs16,000/- and then Rs.10,000/- on three occasions to the accused persons, but despite that his sister being maltreated. He stated that when he after a month he visited her sister's house, he was also beaten up.

PW-4 Mohan Lal lent support to the prosecution on material points.

PW-7 Ajaib Singh stated that articles recovered from the house of Sukhwinder Lal were given to Santosh Devi in the police Station in his presence which were identified by her .

PW-8 SI Sukhev Singh who has carried out investigation in this case stated that on 12.8.2001, Sukhwinder and Prem were arrested and dowry articles were taken into police possession vide Exhibit PD and after completion of investigation challan was prepared by ASI/SHO Baljeet Singh. As such it stand established on record that complainant Santosh Devi was subjected to cruelty, fulfill illegal demand of dowry by her husband Sukhwinder Lal. Complainant Santosh Devi had no reason to file a false complaint against her husband and father-in-law and then to pursue it. Further there was not occasion for her to come out of the matrimonial home without any rhyme or reason. It comes out that she was thrown out of the matrimonial home by the accused, since she had failed to meet their demand of more dowry articles. The trial Court was justified in convicting Sukhwinder Lal for offence under Section 498 A IPC and sentencing him accordingly.

The Appellate Court did not commit any error in dismissing the application. The Appellate Court has rather by detailed discussion, in light of the legal position on the subject, found that Sukhwinder Lal had treated his wife with cruelty. The necessary ingredients of offence under Section 498-A IPC i.e. Sukhwinder Lal being husband of Santosh Devi had subjected her to cruelty, fully stand established on record. The trial Court was justified in convicting the accused for said offence. The substantive sentence

awarded to him is also only for one year when the sentence could extend to three years. The judgment of the Appellate Court also does not suffer from any infirmity. There is no ground to upset the judgments passed by the Courts below, as well as conviction of the revisionist for offence under Section 498-A IPC. There is no scope for further reduction in the sentence.

The revision petition is found to be without any merit and the same is dismissed accordingly.

The accused is stated to be on bail granted by this Court. He be taken into custody so as to undergo the remaining sentence.

20.7.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No