

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 4161 of 2012 (O&M)

Date of decision : 3.10.2018

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Raman Bala Joshi

.....Petitioner

vs.

State of Punjab and others

.....Respondents

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

Present: Mr. R.D. Bawa, Advocate for
Mr. Samuel Gill, Advocate for the petitioner.

Ms. Samina Dhir, DAG Punjab.

Mr. Rajiv Trikha, Advocate for the complainant.

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H. S. Madaan, J.

Subhash Chander Joshi, Deepak Joshi, Bimla Joshi, Sarita Joshi, Sudesh Joshi, Indu Sharma and Vijay Kumar, faced trial by Chief Judicial Magistrate, Hoshiarpur and vide judgment dated 27.8.2009, they were acquitted of the charges framed against them.

Briefly stated, facts of the case as per the prosecution story happen to be that complainant Raman Bala Joshi had submitted a complaint to Chairperson, Association of Social Health, Hoshiarpur on 25.1.2001 stating therein that she was married with Dr. Subhash

Chander Joshi, on 20.11.1994, who is working as a Radiologist and Pathologist. After the marriage, she went to the matrimonial home and cohabited with her husband Dr. Subhash Chander Joshi. Other accused, namely Deepak Joshi, Vijay Kumar – brothers, Bimla Devi – mother, Sarita Joshi and Indu Sharma – sisters of Subhash Chander Joshi also used to reside there. Subhash Chander Joshi was sole bread winner of the entire family. Since all other family members wanted to grab property of Subhash Chander Joshi, they started harassing and maltreating the complainant, so as to force her to leave the matrimonial home. In the complaint she narrated various instances when she was harassed, tortured and maltreated. According to the complainant though she alongwith her husband had separated their residence but her in-laws family continued their interference.

On receipt of complaint sent by Raman Bala Joshi, Association of Social Health, Hoshiarpur, organized a meeting between the complainant and her husband, so that they could sort out their differences but in vain. As such, the Secretary of Family Counseling Centre, Hoshiarpur, run by Association for Social Health, wrote a letter to the Senior Superintendent of Police, Hoshiarpur, for the purpose of registration of the case. Accordingly, formal FIR was recorded. Investigation in the case started. The accused were formally arrested in this case.

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

On presentation of challan copies of documents relied upon therein were supplied to the accused free of cost, as provided

under Section 207 Cr.P.C. On finding a prima facie case, charge under Section 498-A IPC was framed against the accused, to which they pleaded not guilty and claimed trial.

During the course of its evidence, the prosecution examined PW-1 Shakuntala Devi, Member Association for Social Health, PW-2 ASI Jagir Singh, PW-3 ASI Bhupinder Singh, and PW-4 Raman Bala Joshi, complainant. Thereafter the evidence of the prosecution was closed by order.

Statements of the 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, pleading innocence and false implication. The accused did not adduce any defence evidence.

After hearing arguments, learned Chief Judicial Magistrate, Hoshiarpur, acquitted the accused of the charge framed against them. The reason given for arriving at this conclusion is that of the PWs examined, i.e. PW-2 ASI Jagir Singh is a formal witness, PW-3 ASI Bhupinder Singh had simply carried out the investigation, therefore, his testimony does not have much bearing to adjudicate the question as to whether offence under Section 498-A IPC has been committed by the accused.

Referring to the testimony of complainant Raman Bala Joshi, the star witness for the prosecution who got her statement recorded as PW-4, her version is uncorroborated and she had not given any specific instances of maltreatment or cruelty, allegedly

perpetrated upon her by the accused, except stating that she had been given beatings by accused Deepak Joshi on 25.1.2001. In her deposition she has not reiterated the allegations levelled by her in the written complaint that all the accused had been torturing her with a purpose to grab the property of her husband. In her cross examination, complainant stated that even after registration of the case she was well treated by her husband Subhash Chander Joshi, as well as mother -in-law Bimla Joshi. She had admitted that ornaments which she was wearing, were purchased by her husband. The complainant had admitted that during pendency of the case, she alongwith her colleagues had gone to Amarnath Yatra and on the way she had met accused No. 1 Subhash Chander Joshi and mother-in-law Bimla Joshi, who had given complete hospitality to her and her group and while leaving she had touched the feet of her mother-in-law.

Paragraphs 14, 15 and 16 of the judgment are very important and are being reproduced for ready reference:-

“14. It is none of allegation of complainant that she was subjected to cruelty by accused on account of inadequate dowry or what was the actual reason for alleged cruelty. For convicting a person U/s 498-A of Indian Penal Code, it was incumbent upon prosecution to prove that who ever being husband or relative of husband of the woman subject such woman to cruelty shall be punished with imprisonment. The expression

cruelty postulates such a treatment as to cause reasonable apprehension in the mind of wife that her living with husband will be harmful and injurious to her life. To decide the question of cruelty relevant factors are the matrimonial relationship between husband and wife, their cultural and temperamental state of life, state of health and their interaction in daily life. In the case in hand there is no such allegation or evidence.

15. Hon'ble Apex Court in a case reported as State of Andhra Pradesh versus M. Madhusudhan Rao - 2005 (4) Recent Criminal Reports - 931 has pleased to observe that if no specific instance of harassment is given cruelty is not established. It has been further held by Hon'ble Apex Court in that judgment that it is only when harassment is committed for the purpose of coercing a woman or any other person related to her to meet an unlawful demand for property etc. that amounts to cruelty punishable U/S 498-A IPC. Similar view has been held in other judgments relied upon by Mr. Handa, learned defence counsel, as referred to above.

16. Thus in the case in hand, allegations of complainant are found to be vague and as such

accused are acquitted of charges framed against them.”

Feeling aggrieved by such judgment of acquittal, the complainant had preferred a revision petition to the Court of Sessions, which was entrusted to the Additional Sessions Judge, Hoshiarpur. However, she was unsuccessful there, in as much as, the said petition was dismissed on 15.3.2012, as such the complainant has filed the present revision petition, notice of which was given to the respondents.

I have heard learned counsel for the petitioner, learned State counsel assisted by learned counsel for respondents No. 2, 3, 5 to 7, besides going through the record.

The petition has been filed belatedly by 139 days. An application under Section 5 of the Limitation Act, has been filed for condonation of delay in filing the revision petition, stating that the delay in approaching this Court took place as the counsel had temporally shifted his residence and office to some other place and the brief got misplaced in the process, which was found after quite some time, therefore, delay in filing of the revision petition took place.

I do not find the reasoning to be plausible and satisfactory and therefore I do not see any ground to condone the delay in filing the revision petition. Moreover, Section 3 of the Limitation Act, 1963 deals with Bar of Limitation providing that every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed although limitation has not been

set up as a defence. Therefore, the petition is bound to be dismissed being time barred.

Secondly, the second revision petition in the matter is not maintainable. Thirdly, even on merits, the petitioner does not have any case. The judgments passed by the Courts below are well reasoned, based upon proper appraisal and appreciation of evidence and correct interpretation of law. I do not see any illegality or infirmity in such judgments, much less apparent on their face, which might have called for interference by this Court.

In view of above discussion, the revision petition stands dismissed.

3.10.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
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Whether reportable	Yes / No
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