

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1968-2013 (O&M)
Date of decision: 10.05.2018

Swaranjit Kaur

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.S. Gill, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

Mr. Amandeep Singh, Advocate
for respondents No.2 & 3.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the judgment dated 17.01.2013 passed by the Additional Sessions Judge, Patiala, vide which respondents No.2 & 3 were acquitted, while partly setting aside the judgment of conviction and order of sentence dated 14.10.2011 passed by the trial Court, convicting them along with co-accused Rajinder Singh under Sections 406 & 498-A of the Indian Penal Code (for short 'IPC') and sentencing them to undergo R.I. for one year along with fine of Rs.1500/- and in default of payment of fine, they were ordered to undergo further R.I. for two months. However, sentenced awarded to co-accused Rajinder Singh was upheld.

Brief facts of the case are that FIR No.749 dated 30.11.2004 under

Sections 406/498-A IPC was registered at Police Station Sadar Patiala against Santosh Singh, Jasvir Kaur wife of Santokh Singh, Rajinder Singh son of Santokh Singh and Rajvinder Singh with the allegations that accused Rajinder Singh was married with complainant Swaranjit Kaur on 04.12.2002 and thereafter, all the accused persons maltreated her and demanded dowry, as detailed in the FIR. Thereafter, in the month of June, 2003 and again on 22.06.2004, panchayats were convened, as there were serious allegations of maltreatment given to the complainant on account of demand of dowry and she was threatened of dire consequences. On 19.04.2004, a female issue was born out of the wedlock but the accused persons did not come to meet her and the child and again on 12.10.2004, accused Rajinder Singh under the influence of liquor, tried to kill the complainant and her daughter. Since there was no improvement in the behaviour of accused Rajinder Singh, by citing various instances of cruelty, maltreatment, demand of dowry etc., the aforesaid FIR was registered.

The trial Court, after framing charges under Sections 406 & 498-A IPC against the aforesaid accused persons, recorded statements of the prosecution witnesses.

PW1 ASI Prem Singh, the investigation officer, deposed on the lines of the investigation done by him. PW2 Inderjit Kaur had proved certain bills regarding purchase of dowry articles by Gurjit Singh, brother of the complainant. PW3 Gurjit Singh also deposed on the lines of allegations given in the FIR. PW4 Amarjit Kumar also proved certain bills with regard to purchase of household articles like Sofa Set etc. by Gurjit Singh.

Thereafter, complainant Swaranjit Kaur appeared as PW5 and

deposed as per version given in FIR and proved the case property/dowry articles as well as the various bills of purchase, statement of account showing withdrawal of some amount, recovery memo of dowry articles as Ex.ME1 to Ex.ME111 and Ex.PW5/1 to Ex.PW5/17. Similarly, PW6 Harsimran Singh also proved certain bills regarding purchase of Refrigerator etc.

In the statement under Section 313 Cr.P.C., accused persons denied all the incriminating evidence, which has come on record and pleaded their innocence, however, no defence evidence was led.

The trial Court, vide judgment of conviction dated 14.10.2011, held accused Santokh Singh, Jasvir Kaur and Rajinder Singh guilty of offences punishable under Sections 406/498-A IPC, however, accused Rajvinder Singh was acquitted of the charges. Vide order of sentence dated 14.10.2011, all the three accused persons were sentenced to undergo R.I. for one year with a fine of Rs.1500/- and in default of payment of fine, they were ordered to further undergo R.I. for two months. Thereafter, the aforesaid three accused persons filed two separate appeals before the lower appellate Court and vide impugned judgment dated 17.01.2013, lower appellate Court allowed the appeal filed by respondents No.2 & 3/accused Santokh Singh and Jasvir Kaur and acquitted them of the charges, however, the appeal filed by co-accused Rajinder Singh was dismissed and he was sent to judicial custody. Feeling aggrieved against the impugned judgment passed by the lower appellate Court, petitioner-complainant has filed the present criminal revision petition.

It is pertinent to note here that co-accused Rajinder Singh filed CRR-936-2013, challenging his conviction under Sections 406 & 498-A IPC and the same was decided on 18.07.2013 by reducing the sentence awarded to

him by the trial Court, from 01 year R.I. to 09 months R.I. This Court, while reducing the sentence of accused Rajinder Singh, has taken note of the fact that respondents No.2 & 3, who are parents of Rajinder Singh, stand acquitted and he was in custody for the last about 06 months and has faced the agony of trial for a period of 04 years.

Learned counsel for the petitioner has not disputed the factual position that the impugned judgment dated 17.01.2013 passed by the lower appellate Court has been upheld by this Court in aforesaid CRR-936-2013 vide order dated 18.07.2013. It is also not disputed that the State has not filed any revision petition challenging the acquittal of respondents No.2 & 3 and the petitioner-complainant never appeared in this Court during pendency of the aforesaid CRR-936-2013 to contest that petition that respondents No.2 & 3 have been wrongly acquitted.

Learned counsel for the petitioner has argued that there is sufficient evidence on record to prove that respondents No.2 & 3, in conspiracy with co-accused Rajinder Singh, have committed offence punishable under Sections 406 & 498-A IPC. It is further submitted that from the statements of PW3 and PW5, it has come on record that respondents No.2 & 3 along with co-accused/their son Rajinder Singh had subjected the complainant to cruelty in order to coerce her to fulfill their illegal demand of dowry, especially a car and they also misappropriated dowry articles entrusted to them.

In reply, learned counsel for respondents No.2 & 3 has submitted that the allegations levelled in the FIR against respondents No.2 & 3 are baseless allegations with regard to demand of dowry and they had disinherited their son Rajinder Singh from the property of his father and respondents No.2 &

3 were living separately from Rajinder Singh. It has come in the cross-examination of PW1 ASI Prem Singh that during the investigation, when he recovered the dowry articles from the house of co-accused Rajinder Singh, Santokh Singh and Jasvir Kaur were found residing separately and they had no concern with him. Counsel for respondents No.2 & 3 has further submitted that there is no direct evidence that respondents No.2 & 3 have ever demanded dowry from the complainant or her parents. It is further submitted that while conducting the inquiry, respondents No.2 & 3 were initially found innocent, however, later on, challan was presented against them.

After hearing learned counsel for the parties, I find no merit in the present petition, for the following reasons: -

- (a) As per the ration card, which is placed on record, accused Santokh Singh and Jasvir Kaur were living separately from co-accused Rajinder Singh, husband of the complainant and nothing has come on record that the relationship amongst them was cordial and Rajinder Singh, at their instance, maltreated the complainant or demanded the dowry.
- (b) In the FIR, no specific date, month or time is given regarding the harassment caused by Santokh Singh and Jasvir Kaur for demand of dowry or for giving any beating. It has come in the cross-examination of the complainant-PW5 that she has not given any complaint against accused Santokh Singh and Jasvir Kaur in any police station or in the Panchayats convened, regarding her dispute with her husband Rajinder Singh.
- (c) The allegations in the FIR that certain articles were also gifted to parents of husband of the complainant at the time of her marriage, the same cannot be termed as dowry; especially when it is not proved that subsequent to

marriage, they have raised any demand of dowry or had maltreated her. The allegations against them that Rs.50,000/- were demanded for purchase of agricultural land, are not proved as the trial Court has recorded a finding that the rate of one bigha of land was not less than Rs.4.00 lacs, as admitted by the complainant in her cross-examination and therefore, for an amount of Rs.50,000/-, no agricultural land could be purchased.

(d) The Courts below have convicted husband of the complainant Rajinder Singh, against whom there were allegations of demand of dowry and beatings given to the complainant and he was convicted by the Courts below for a period of one year R.I., which was later on reduced to 09 months R.I. vide judgment dated 18.07.2013 passed in CRR-936-2013, upholding that respondents No.2 & 3 have been acquitted as Rajinder Singh was in judicial custody for a period of 06 months. Learned counsel for respondents No.2 & 3 has submitted that since co-accused Rajinder Singh completed his sentence of 09 months, he has been released from judicial custody.

In view of the above, I find no merit in the present petition and the impugned judgment passed by the lower appellate Court discharging respondents No.2 & 3 as the conviction of other co-accused Rajinder Singh, who has already undergone the sentence as per the judgment dated 18.07.2013 passed in CRR-936-2013, is upheld.

Dismissed.

[ARVIND SINGH SANGWAN]
JUDGE

10.05.2018

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No