

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

Crl. Revision No. 1325 of 2015(O&M)

Date of Decision: 24.07.2018

Geeta Sharma

.. Petitioner

Vs.

State of Haryana & Ors.

.. Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. Jagjeet Beniwal, Advocate
for the petitioner.**

Mr. Sharad K. Yadav, DAG Haryana.

ANITA CHAUDHRY, J.

The petitioner is aggrieved with the judgment dated 13.07.2009 rendered by the Chief Judicial Magistrate, Bhiwani as respondents No.2 to 7 were acquitted of the charges under Sections 406 and 498-A IPC. A challenge has also been laid to the judgment dated 09.02.2015 vide which the appeal was also dismissed.

The facts first. The petitioner was married to respondent No.2 Anil Kumar 08.02.2003. Respondent Nos.3 and 4 are parents-in-law while respondents No. 5 and 7 are brothers-in-law and respondent No.6 is wife of respondent No.5.

The petitioner lodged FIR No. 445 dated 29.11.2003 under Sections 406 and 498-A IPC on the allegations that sufficient dowry was

given to the accused in the marriage, but they were not satisfied and she was harassed and maltreated by them. It was averred that at one point her father gave Rs.1.5 lacs by mortgaging the land. But the behaviour of accused did not change. She was forcibly sent to her parental home with her brother who had come on Raksha Bandhan. On 11.11.2003 the Panchayat had gone to the house of the accused but they refused to settle her and misappropriated her dowry articles. It was also averred that Anil had illicit relations with other women. The case was registered and investigated. The accused were put to trial.

At the trial for the charges under Sections 406 and 498-A IPC, the complainant appeared in the witness box as PW1 and her father and uncle were examined as PW3 and PW6 respectively besides other official witnesses.

The accused abjured the trial in their statements under Section 313 Cr.P.C. No defence evidence was led.

On analyzing the evidence on record, the trial Court acquitted the accused. The complainant failed in appeal, leading to the filing of the instant revision petition.

I have heard learned counsel for the petitioner and have gone through the records of the Courts below.

It is evident that in the complaint given to the police there was no specific entrustment and no specific time or date of beatings or maltreatment was mentioned. There was admittedly gap of five years between the engagement and marriage. The petitioner had a very short stay at her matrimonial home. Her allegations were found vague and baseless. The complainant and her witnesses were found discrepant regarding the

demand of dowry. They made exaggerations regarding beating and misbehavior before the Panchayat. The payment of Rs.1.5 lacs by mortgaging the land was not proved as no mortgage deed was produced on record nor the person to whom the land was mortgaged was examined. Their testimonies were considered and disbelieved by the trial Court. In an audio CD, the complainant and her father admitted that there was no demand of dowry and the trial Court held that there had been temperamental differences between the couple, following which the complainant had roped in all the members of in-laws family, who were living separately and that too without any substance. The trial Court held as under:-

“14. Though the complainant PW1 along with her father PW2 Ram Kumar and PW6 Ram Avtar have supported the allegations in the complaint, however testimonies of these witnesses suffer from infirmities as they have tried to make improvements in their earlier statements made during the investigation, also there are certain contradictions in their testimonies as compared to their earlier statements. Complainant Geeta has though leveled allegations against accused Anju Sharma in her complaint Ex.PX but she has failed to reiterate the same in her testimony before the Court. Similarly, PW3 Ram Kumar, father of the complainant has failed to level any allegations against accused Anju Sharma. PW6 Ram Avtar has failed to level any allegation against accused Anju and accused Manoj. None of the material witnesses of the prosecution have uttered even a single incriminating word against accused Anju, hence there is no evidence against her. In the complaint Ex.PX, there is no mention of demand of car by the accused and this allegation has surfaced for the first time in her testimony before the Court. Similarly, there is no allegation regarding attempt to assault her by her husband and her brother in law at the time of visit of Panchayat in complaint Ex.PX but again this

allegation finds mention for the first time in her testimony before the Court. It is also pertinent to mention here that complainant has admitted that her brother in law used to work in Amethi, her father in law in Moga and her husband was running a Coaching centre at Chandigarh. In these circumstances, it was extremely imperative for the complainant to disclose the places where the allegation incidents occurred. If the demand for dowry and the alleged torture was done at Moga then presence of accused Anil, Manoj and Anju becomes doubtful. Similarly, if these offences have been committed at Chandigarh then the presence of remaining accused becomes doubtful. Complainant was required to specifically state the place of occurrence and that the remaining accused were present at the time of occurrence, when admittedly there are three different abodes. The complainant in her cross-examination has deposed that she lived at Chandigarh and Moga but she has failed to disclose for long she lived at one place. She has also deposed that her brother-in-law used to live with her and accused Anil at Chandigarh but she has failed to mention the whereabouts of the remaining accused, meaning thereby that they were not living with them at Chandigarh. Hence, allegations leveled against them is nothing but an attempt to rope in all the relatives of the husband which has become a growing tendency now-a-days as was being acknowledged by Hon'ble Punjab and Haryana High Court in judgments cited Divya alias Babli and others Versus State of Haryana and another, 2006(4) RCR(Criminal) 332 and Raj Pal Singh Versus State of Haryana 2000(3) RCR (Criminal) 135. The allegations in the complaint and the testimonies of complainant PW1, Ram Kumar PW3 and Ram Avtar PW6 are vague without giving specific date, month or year of the alleged torture, demand of dowry or misappropriation of the dowry articles. Complainant has deposed that in the 1st week of March, 2003 when she came to her parental house she informed her father about the dowry

demand and when her father gave a telephone call to the accused, they demanded cash o Rs.1,50,000/-. However, on the other hand, PW3 Ram Kumar has deposed that accused had expressed unhappiness regarding dowry on the way itself. Though, he has reiterated the testimony of complainant regarding demand of Rs.1,50,000/- by the accused in the month of March, 2003, however, their testimonies are contradictory to the allegations contain in the complaint wherein complainant has alleged that when she came at her matrimonial home and expressed inability of her parents to meet the dowry demand of the accused, and requested them to be satisfied with the dowry which had already been given the accused were not pacified and they started misbehaving and giving beatings to the complainant and when she could not bear the torture any more she returned to her parental house and narrated the entire incident to her parents and told that accused were demanding Rs.1,50,000/- and thereafter her father paid Rs.1,50,000/-. As per the allegations in the complaint money was paid at the time of second visit of the complainant at her parental house but as per her testimony before the Court money was paid on her first visit after the marriage. Further the complainant has deposed that few days after the payment of Rs.1,50,000/- accused had demanded a car, however she is again contradicted by PW3 who has deposed that accused had demanded the car when he had gone to their house with the panchayat. These contradictions are material and it shows that there are inconsistencies in the testimonies of prosecution witnesses. Further, the allegation of demand of car is conspicuously missing in the complaint.”

The Courts below had elaborately discussed the facts and evidence and had given reasons to disbelieve the prosecution case. The findings returned are based on correct appreciation of evidence.

There is very limited scope while exercising revisional jurisdiction. 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 revision petition is dismissed.

July 24, 2018**Jiten**

Whether speaking/ reasoned

Whether reportable

(ANITA CHAUDHRY)**JUDGE**

Yes/ No

Yes/ No