

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

CRR-1723-2015

Date of decision:-3.8.2018

Kalpana

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Chanderhas Yadav, Advocate
for the petitioner.

H.S. MADAAN, J.

This revision petition is directed against the judgment dated 26.2.2015 passed by learned Additional Sessions Judge, Narnaul dismissing the appeal as well as judgment dated 19.1.2013 passed by Sub-Divisional Judicial Magistrate, Mahendergarh acquitting respondents No.2 to 5 of the charge framed against them.

Briefly stated, the facts of the case are that on 30.9.2006 complainant Kalpana daughter of Ram Niwas submitted a written complaint at police station stating therein that she was married with Ajay Kumar son of Indraj on 27.11.2004 at village Notana with great pomp and show and a sum of Rs.5 lakhs was spent at that time; that her parents had

given sufficient dowry articles to her, which formed her *ISTRIDHAN*; that after marriage, she went to her matrimonial home, where she resided for one month, however 2-3 days after marriage, her husband Ajay Kumar and his family members started harassing her for bringing insufficient dowry; that she used to be abused and given beatings by her mother-in-law Kela Devi on one pretext or the other; that she was kept without food even; that when a period of one month elapsed, her husband left for his duty; that in his absence her parents-in-law and sister-in-law confined her in a room; that she had informed her husband in that regard telephonically but to no effect; that demands for more dowry articles continued to be raised; that the complainant informed her brother and family members in that regard; that she had gone to her parental house; that her father had convened a Panchayat, where father-in-law of complainant was called, who gave an assurance that in future the complainant would not be subjected to any harassment, as such, the complainant was sent back to the matrimonial home, however, after a few days, the same story got repeated; that the complainant again informed her father telephonically, as such her father came on 3.10.2005, he was accompanied by several other persons; that all of them reasoned with in-laws of complainant and left from there; that as soon as her father left, her parents-in-law called their daughter by making a telephone call; that at night her parents-in-law and sister-in-law gave beatings to the complainant and after sprinkling kerosene oil upon her tried to set her ablaze, however, when the complainant started shouting in loud voice, then the miscreants left her; that in the morning, said persons gave beatings to her and her mother-in-

law snatched gold chain from her neck, her sister-in-law snatched ear rings and found gold bangles, while her father-in-law asked her to remove all the ornaments, which she was wearing threatening that otherwise he would kill her; that due to the said fear, the complainant removed all her ornaments and gave those to her father-in-law, however, later on accused threw her out of the matrimonial home and asked her not to enter the house till she fulfilled their demand of Rs.51,000/- in cash, flour mill and washing machine, otherwise she would be killed. According to the complainant, the accused have misappropriated committed criminal breach of trust with regard to the ISTRIDHAN articles given to the complainant by her parents and relatives, though entrusted to the accused. The complainant sought taking of action against the culprits. On the basis of the written complaint submitted by the complainant, formal FIR was registered. The investigation in the matter got started. Accused were arrested in this case. After completion of investigation and other formalities, challan against accused was prepared and filed in the Court.

On presentation of challan in the Court of Sub Divisional Judicial Magistrate, Mahendergarh, he supplied copies of documents relied upon in the challan to the accused free of cost as provided under Section 207 Cr.P.C.

Learned Sub Divisional Judicial Magistrate, Mahendergarh finding that charge for offences under Sections 498-A, 406, 506, 34 IPC was disclosed against all the accused, charge-sheeted them for the said offences, to which, they pleaded not guilty and claimed trial.

During the course of its evidence, the prosecution had

examined as many as six witnesses, namely, Sh.Ram Niwas as PW1, Ms.Kalpana as PW2, Sh.Hitender as PW3, Smt.Prabhavati as PW4, SI(Retd.) Rohtash as PW5 and SI(Retd.) Sher Singh as PW6.

With that the prosecution evidence stood closed.

Statements of accused were recorded under Section 313 Cr.P.C. in which the accused while denying the incriminating circumstances appearing against them submitted that they were innocent and had been falsely involved in the case.

The accused did not lead any evidence in their defence.

After hearing arguments, the learned trial Court had acquitted the accused of the charge framed against them.

Feeling aggrieved, the complainant had preferred an appeal against the said judgment passed by trial Magistrate, which was assigned to learned Additional Sessions Judge, Narnaul, however, vide judgment dated 26.2.2015 learned Additional Sessions Judge, Narnaul affirmed the judgment passed by trial Court and dismissed the appeal, which left the complainant aggrieved and he has approached this Court by way of filing the present revision petition.

I have heard learned counsel for the petitioner besides going through the record.

The trial Court has taken into consideration the contention put forward on behalf of the accused that complainant has since obtained divorce from Ajay Kumar – accused and has got remarried and the FIR was lodged by her to harass Ajay Kumar and his family members. It has further been noticed that Anjana sister of Ajay Kumar was married prior

to the marriage of complainant with Ajay Kumar and she had been residing with her husband, who is a Navy Officer and that she had been dragged in as a tool of harassment for the accused. The trial Court taking into consideration the ingredients of offence under Section 498-A IPC i.e. harassment of a married girl accompanied by unlawful demand for property or valuable security, while examining the case in hand on touchstone of the evidence available on the record in the form of statement of PW1 Sh.Ram Niwas, father of the complainant, PW3 Sh. Hitender, brother of the complainant, PW4 Mrs.Prabhawati, mother of the complainant and PW2 Ms.Kalpana the complainant, has come to the conclusion that there are only general and vague allegations with regard to accused beating up and harassing the complainant for bringing less dowry and specific details of such alleged incidents have not been established. Reply given by PW2 Kalpana complainant in her cross-examination that she stayed at the matrimonial home one on two occasions, firstly immediately after marriage on 27.11.2004 till the end of December, 2004 and secondly from July, 2005 till 4.10.2005 when she was thrown out of the matrimonial home has also been referred to, so is her admission that her husband Ajay Kumar was employed in the Army and on the first occasion, he had left home to join duty 2-3 days before she went to her parental house in the end of December 2004 and during her stay at matrimonial home on the second occasion, Ajay Kumar had come on holidays for two months in July, 2005. The reply given by complainant in her cross-examination that regarding the alleged harassment and cruelty and demand of dowry by accused after 2-3 days after marriage, she did

not inform her parents or brother and that marriage of her sister in law Anjana was solemnized on 22.11.2004 and she stayed at her parental house at Kakrala for 15 days after her marriage and thereafter went to her matrimonial house at Bawaniya, have also been taken into consideration while drawing the inference that demand of dowry and harassment of the complainant were not proved and the complainant had not deposed in a truthful manner. By giving valid reasoning statements of PW2, PW3 and PW4 have also not been found to be worthy of reliance. The trial Court has found the investigation carried out to be defective ultimately coming to the conclusion that the prosecution had failed to prove its charge against the accused beyond shadow of reasonable doubt.

Learned Additional Sessions Judge, Narnaul, while hearing the appeal, examining the case in light of the evidence available on the record has also found that conclusion recorded by the trial Court is a possible conclusion, which should not be interfered as there is no evidence on record to suggest that view taken by the trial Court is not possible. The concluding paras No.20 and 21 are relevant, which are being reproduced as under:

20. After considering the evidence on record, this court is of the view that learned trial Court had considered evidence on record and discussed each and every aspect of the case while passing the judgment dated 19.1.2013. Considering the above discussion, this Court is of the view that there is no illegality in the findings of learned trial court as prosecution has failed to prove the case beyond reasonable doubt and

learned trial Court has rightly acquitted the respondents No.1 to 4.

21. The counsel for the appellant had failed to show any illegality in the judgment dated 19.1.2013 passed by the court of learned Sub Divisional Judicial Magistrate, Mahendergarh. Accordingly, this Court does not find any illegality in the judgment dated 19.1.2003 passed by learned trial Court. The present appeal is dismissed. Record of the trial Court be sent back with the copy of this judgment. File be consigned to the record room after due compliance.

The law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse and not otherwise.

In view of the above, I find no illegality or infirmity in the judgments passed by the Courts below, the same are upheld and the revision is found to be without any merit and is dismissed accordingly.

Necessary information be sent to the quarter concerned.

3.8.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No