

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

Crl. Revision No. 126 of 2016(O&M)

Date of Decision: 27.11.2018

Babita

.. Petitioner

Vs.

State of Haryana & Ors.

.. Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. Surender Saini, Advocate
for the petitioner.**

ANITA CHAUDHRY, J.

The petitioner is aggrieved with the judgment dated 27.05.2014 rendered by the Sub Divisional Judicial Magistrate, Bahadurgarh. Respondents No.2 to 4 were acquitted of the charges under Sections 406, 498-A and 506 read with Section 34 IPC. Challenge has also been laid to the judgment dated 31.10.2015 vide which the appeal was dismissed.

The petitioner was married to respondent No.4 Sanjay on 17.04.2003. Respondent No.2 Om Parkash is the father-in-law while respondent No.3 Kamla Devi is the mother-in-law.

The petitioner filed a complaint in the Court, which was forwarded to the police, on the basis of which FIR No. 16 dated 30.03.2006 under Sections 406, 498-A and 506 read with Section 34 IPC was registered. The allegations were that her father had died and sufficient dowry was given to the accused in the marriage by her mother, but the husband and parents-in-law were not satisfied and she was harassed and

maltreated by them. Demand of Rs.40000/- was raised and she was beaten up on 12.08.2003 and turned out of the matrimonial home and they criminally intimidated her. She was rehabilitated only on receipt of Rs.20,000/- which was paid by her mother, which she borrowed from Jaiparkash, her maternal uncle. For sometime, she was kept nicely. On 13.10.2005 she was again turned out of the matrimonial house owing to non-fulfillment of demand of Rs.20,000/- and her dowry articles were retained. *Panchayat* was convened, but did not yield results.

The case was investigated. Some household articles were recovered. On completion of investigation, challan was filed. Charge was framed. At the trial the prosecution examined five witnesses, including the applicant (PW1), brother Sunil (PW2), maternal uncle Jai Parkash (PW3) and Inspector Partap Singh (PW5), the investigating officer. The accused abjured the trial in their statements under Section 313 Cr.P.C. No evidence was produced in defence.

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.

A perusal of the complainant as well as the statements of applicant, her brother and maternal uncle, would reveal that there was no reference to entrustment of dowry articles to the accused. It was generally said that sufficient items were given in the marriage without specifying as to what items were entrusted to which accused. Entrustment is *sine quo non* for attracting the provisions of Section 406 IPC which are conspicuously

missing in this case. Not only this, no proof regarding purchase of any items was produced. The applicant showed ignorance of having knowledge of purchase and entrustment of articles mentioned in list Ex.PW1/C, at the time of marriage. PW2 and PW3 were also not specific about the items given in the marriage. With regard to the other household articles given to the accused, it was held that those did not constitute dowry and the amount given were customary ceremony and could not be termed as dowry

The applicant and her witnesses had deposed that there were demands of cash of Rs.40,000/- by the accused and later they demanded Rs.20,000/- during the ceremony after the birth of the son. The complainant and her witnesses failed to give specific date or time when she was beaten by the accused. The ocular version was not corroborated by medical evidence. The witnesses were found to be discrepant so far as demand is concerned.

The complainant deposed that Rs.40,000/- and a motor cycle was demanded, while her brother PW2 Sunil Kumar mentioned about the demand of dowry including motor-cycle. PW3 Jai Parkash had deposed that a motor cycle and Rs.20,000/- were demanded. The case of the prosecution was that the father of the complainant had died prior to her marriage and Jai Parkash had arranged the marriage expenses as the mother of complainant had no source. PW Jai Parkash had also accompanied the Panchayat and he had given Rs.20,000/- to the mother of the complainant for settlement of daughter at her matrimonial home. When he had stepped into the witness box, this witness failed to corroborate the testimony of complainant. He just stated that he was told by the complainant that there was demand of motor cycle and Rs.20,000/- and his sister had paid some amount to the accused.

No independent person from the Panchayat was examined. All the three witnesses were closely related to each other. The allegation regarding criminal intimidation were general in nature. It was not specifically stated by the complainant that who had extended threat to her and in what manner. PW2 Sunil and PW3 Jai Parkash were silent about the threat.

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.

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.

November 27, 2018
Jiten

(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No