

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

CRR-2960-2015(O&M)

Date of decision:-3.8.2018

Smt.Manoj Kumari

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Present: Mr.Sandeep Verma, Advocate
for the petitioner.

H.S. MADAAN, J.

This revision petition is directed against the judgment dated 12.12.2014 passed by learned Additional Sessions Judge, Rewari dismissing the appeal as well as judgment dated 7.4.2014 passed by Chief Judicial Magistrate, Rewari acquitting the accused of the charge framed against them.

Accused Abhay Singh, his brother Jai Pal, mother Chandro Mugili and Prem Devi wife of Jai Pal faced trial by Chief Judicial Magistrate, Rewari for the offences under Sections 498-A, 406 and 34 IPC. However, they were acquitted of the charge framed against them vide judgment dated 7.4.2014.

Briefly stated, the facts of the case are that Smt. Manoj Kumari had filed a complaint in the Court of Chief Judicial Magistrate, Rewari and as per order passed thereon under Section 156(3) Cr.P.C. for registration of FIR, formal FIR was registered. *Inter alia*, the complainant alleged that she was married with Abhey Singh on 2.5.2012 and at that time her father had given sufficient dowry articles, however, her husband and his family members were not happy with the dowry articles given and they started harassing her for demand of dowry; that under compulsion, her father had given Rs.50,000/- to accused Abhey Singh in October, 2002, Rs.1 lakh to accused Jai Pal in the month of July, 2003, Rs.25,000/- to the complainant, which she handed over to her mother-in-law on 15.9.2004 and Rs.75,000/- to accused Abhey Singh in the month of March, 2005 but there was no change in the behaviour of the accused; that the complainant was given beatings at the time of Deepawali in the year 2006 and finally on 23.7.2007, she was shunted out of the matrimonial home when she was in family-way; that the complainant had submitted an application dated 25.9.2007 to Superintendent of Police, Rewari where the matter was compromised on 10.10.2007; that the complainant returned to the matrimonial home but there was no change in the behaviour of accused and they kept on harassing and torturing her with regard to the demand of dowry and on 5.1.2008, the accused forced the complainant to leave the the matrimonial home. According to the complainant, she had asked the accused persons to return her dowry articles, which formed her *ISTRIDHAN* but in vain. After registration of the FIR, the matter was investigated. Accused were arrested in this case and released on bail.

On presentation of challan in the Court of Additional Chief Judicial Magistrate, Rewari 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 Additional Chief Judicial Magistrate, Rewari finding that charge for offences under Sections 498-A, 406, 34 IPC was disclosed against all the accused, charge-sheeted the accused 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 four witnesses, namely, PW1 ASI Babu Ram, PW2 Constable Ravinder Kumar, PW3 Gyani Ram and PW4 Manoj Kumari.

Thereafter the prosecution evidence was closed by Court order.

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.

In defence evidence, the accused examined Vikram Singh as DW1, Hukam Singh as DW2 and Rameshwar as DW3(wrongly mentioned as DW2).

With that the defence evidence stood closed.

Learned trial Court formulated following points for determination:

- 1. Whether the accused persons treated the complainant with cruelty for bringing insufficient dowry?*

2. *Whether the accused persons were entrusted with dowry articles and they dishonestly converted the same for their use?*
3. *Whether the accused persons are liable to be punished under Sections 498-A, 406 read with Section 34 IPC?*
4. *Decision.*

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

The reasoning given by the trial Court is as under:

15. *However, in the considered opinion of this Court, the prosecution has failed to prove the case against the accused beyond the shadow of reasonable doubt. The perusal of the evidence brought on record reveals that only general and vague allegations have been levelled against the accused persons. No specific role has been attributed to any of the accused persons. The contents of the complaint does not show as to which offence has been committed by whom and what is the exact role played by the accused persons in commission of alleged offences. The complaint is also silent regarding the date and time when the accused persons had tortured the complainant for not bringing sufficient dowry. There had been allegations that the accused persons had tortured the complainant physically and mentally, but not a single incident had been mentioned against them. Neither the matter has ever been report to the police, nor any medical*

history of any such assault has been brought on record. It has been vaguely mentioned in the complaint that after few days of marriage of the complainant, she has been harassed and tortured for dowry. No specific date has been mentioned by the complainant. It is mentioned that after the 5-6 months of the marriage of the complainant, her father Gyani Ram has given Rs.50,000/- to Abhey Singh. However, when her father appeared before the Court, he failed to mention as to whom he gave Rs.50,000/-. Thereafter, this witness has again deposed that he gave Rs.1 lac to the in-laws of his daughter. Again he failed to mentioned as to whom he handed over the aforesaid amount. Complainant as well as PW3 Gyani Ram has failed to prove as to in whose presence, they handed over the amount to the accused persons. The complainant party failed to prove on record the source of aforesaid amount allegedly handed by them to the accused. However, in order to rebut the case of the prosecution, defence counsel has relied upon the document Ex.DB, wherein the brother of complainant Jai Pal has suffered his statement before the court to the effect that Rs.50,000/- has been arranged by family of the complainant from Master Kishan Lal. He admits that writing of the afore-said borrowed amount had been kept by Master Kishan Lal. However, prosecution has neither cited him as witness nor examined him in the court. He further deposed that he gave Rs.25,000/- by withdrawing the

same from his bank account. However, no such account statement has been produced by the prosecution. Hence, in view of the facts and circumstances, this court is satisfied that complainant party has levelled general and vague allegations. There is no evidence on record to prove that afore-said amount had been arranged by the complainant party either from Master Kishan Lal or from the bank account of Jaipal s/o Gyani Ram. It has also come to the testimony of PW4 i.e. complainant that she moved complaint to the women cell, but the allegations levelled by her were found false, and women cell does not find it a case of demand of dowry. It is also pertinent to mention here that prosecution has failed to corroborate the version of the complainant by examining any independent witness. All the material witnesses examined by the prosecution are either interested or hearsay witnesses only. Hence, their testimonies do not carry any weight, and they failed to corroborate the allegations levelled by the complainant by leading any cogent evidence.

16. There is no evidence of any hurt sustained by the complainant at the hands of the accused persons. No MLR has been brought on record to prove that complainant has ever sustained any injury. The matter has never been reported to the police. Hence, it seems to this Court that bare allegations have been levelled just to harass the accused

party. It is also common tendency now a days to rope in each and every family members of the husband in such cases. Therefore, keeping in view the present facts and circumstances, this court has concluded that the prosecution has failed to prove its case against accused beyond reasonable shadow of doubt.

17. Hence, as a sequel of my observations, this Court has come to the conclusion that the prosecution has failed to bring home the guilt of the accused persons beyond shadow of reasonable doubt. Consequently, all the points are decided in favour of the accused persons and against the prosecution. Hence, the accused persons are acquitted of the charge framed against them by extending the benefit of doubt. Their bail bonds and surety bonds are discharged. File be consigned to the record room after due compliance.

Feeling aggrieved, the complainant had preferred an appeal against the said judgment passed by trial Magistrate, which was assigned to learned Additional Sessions Judge, Rewari, who agreed with the inference drawn by the trial Court finding that merely on the ocular testimony of complainant (PW4) and her father (PW3), the allegations regarding demand by the accused and payment of amount to them by the complainant and her father are not proved; that there is no evidence to show that the complainant had sustained any hurt/injury at the hands of respondents/accused since no MLR or medical record with regard to

alleged assault was brought on record to show that the complainant ever sustained any injury at the hands of respondents/accused; that no complaint was lodged with any competent authority regarding the assault alleged by her. Therefore, the allegations of demand of dowry as well as harassment levelled by the complainant against respondents/accused are vague and not proved on record against respondents/accused beyond shadow of reasonable doubt. Learned Additional Sessions Judge, Rewari has noted that now a days there is a common tendency to rope each every family member of the respondent/accused in such type of cases. It has further been noted that the complainant had earlier solemnized her marriage with Anil son of Man Singh but that fact was suppressed from Court, therefore no reliance could be placed on her testimony given before the Court regarding the allegations levelled by her against the respondents/accused and that admittedly the complainant has received all her dowry articles from the respondents/accused vide recovery memo Ex.PW1/A.

Vide judgment dated 12.12.2014 learned Additional Sessions Judge, Rewari 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 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