

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

CRR-3107-2014

Date of decision:-16.8.2018

Rajwanti

...Petitioner

Versus

Surinder Singh and others

...Respondents

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

Present: Mr.J.P. Sharma, Advocate
for the petitioner.

H.S. MADAAN, J.

This revision petition is directed against the judgment dated 4.8.2014 passed by learned Additional Sessions Judge, Karnal dismissing the appeal as well as judgment dated 4.3.2011 passed by Judicial Magistrate Ist Class, Karnal acquitting respondents No.1 to 4 of the charge framed against them.

Briefly stated, the facts of the case as per the prosecution story are that complainant Rajwanti wife of Surinder Singh had submitted a private complaint in the Court alleging therein that she was married with Surinder Singh on 24.3.2002 and at that time her parents and relatives had given sufficient customary gifts and dowry articles, which were meant for

her exclusive use and formed her ISTRIDHAN; that after the marriage the spouses started residing together; that the marriage was consummated; that after some time behaviour of the husband of the complainant and his family members towards the complainant changed as they were not happy with the dowry articles brought by the complainant and they started maltreating her on one pretext or the other and they used to insult her so as to force her to bring more dowry articles; that the complainant tolerated such treatment in the hope that things would improve for the better but that was not to be; that the complainant was thrown out of the matrimonial home on 20.7.2002; that on 1.8.2002 when the complainant was all alone in her paternal house and time was about 10:00 a.m., then accused Jogi Ram came, entered her house, raped her and ran away; that the complainant submitted a written application to the police on 2.8.2002; that complaint was inquired into and subsequently a written compromise was effected between the parties; that accused Jogi Ram felt sorry before Panchayat and put his signatures on the compromise in presence of respectables; that the complainant was taken back to the matrimonial home on 26.8.2002, however, she was again started being given beatings and demands of more dowry in the form of cash of Rs.50,000/- were raised; that on 23.4.2003 father of the complainant came to know that she was in a serious condition due to suffering injuries at the hands of accused persons, as such, he came to matrimonial home, took the complainant along with him; that the complainant was got medico legally examined and five injuries were found on her person; that thereafter on 27.4.2003, a Panchayat was convened at parental house of complainant where accused

came but they threatened her and her parents, kept demanding Rs.50,000/- and refused to return her *ISTRIDHAN*, as such, the complainant filed a complaint. The complainant requested that it be sent under Section 156(3) Cr.P.C. and that request was accepted by the Court of Judicial Magistrate Ist Class, Karnal. The complaint was sent to the police for registration of the FIR. FIR was registered. The case was investigated. 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 Judicial Magistrate Ist Class, Karnal, copies of documents relied upon in the challan were supplied to the accused free of cost as provided under Section 207 Cr.P.C.

Learned Judicial Magistrate Ist Class, Karnal finding that charge for offences under Sections 498A/323/34/406/506 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 six witnesses, namely, PW1 Rajpal, PW2 Rajwanti, PW3 Hari Singh, PW4 ASI Santosh, PW5 Jaipal Singh and PW6 ASI Satbir Singh.

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.

Accused did not lead any evidence in defence.

After hearing arguments, the learned trial Court had acquitted the accused of the charge framed against them. The reasoning given for arriving at this conclusion are as under:

The letter which has been written by the complainant to her father is dated 22.4.2003 but in the complaint Ex.PW2/C she has not mentioned the date of the said letter. Also, perusal of the said letter shows that it has been received by her parents on 24.4.2003 as per postal stamp on the inland card but her father came to take her back on 23.4.03 i.e. one day prior to reaching this letter and as per version of the complainant her miserable state was brought in front of her parents due to this letter dated 22.4.03 which compelled her father to come on 23.4.03 whereas on 23.4.03 her father had no knowledge about the letter since the date of receiving is 24.4.03.

Bare perusal of the above deposition of the complainant in the court shows that she is not coming to the court with clean hands and she is not deposing truth in the court. She has levelled a grave allegation against accused no.4 saying that when she was in her parental house, accused no.4 at around 10:00 AM came to her place, raped her and interestingly despite all the fact that her modesty was outraged by accused no.4, she entered into a compromise just on a simple act of apologization of her father in law. She

also filed complaint against accused no.4 under Sections 376/313/201/34 IPC which has been dismissed and copy of the same is Ex.DH on the record. Not only this, she is even so vague about the time, date and the year when the demand of dowry being raised. As per her allegations in the complaint, accused firstly demanded Rs.1 lac for the job of accused no.4 when she refused she was shunted out. Thereafter she was raped by accused no.4 and thereafter matter was compromised. She again came back and again demand of Rs.50000/- was being raised but the facts as deposed by her in the court in her cross examination do not substantiate even a single allegation as levelled as accused as per her complaint. Most important fact which raises doubt is that as per her cross examination, she wrote a letter to her father on 22.4.03 telling about her miserable condition in the matrimonial house being meted out by her due to the atrocities of the accused due to which she was taken back by her father on 23.4.03. But as per her cross in the court, she met her father one year after writing of that letter. As already opined the letter was written on 22.4.03, recdeived on 24.3.03 and she was taken back by her father on 23.4.03. So, allegations in the complaint on the very face of it, have proved to be farce. Also other witness who has come to the court have also miserably failed to substantiate or to corroborate the version of the complainant. Hence,

prosecution has miserably failed to prove the guilt of the accused to the hilt. As far as offence under Section 406 is concerned, complainant in her cross examination has clearly deposed that in the Panchayat whatever articles were asked, they were returned back. Hence, no offence under section 406 IPC is made out. Demand for the business cannot be termed as a demand of dowry and the allegations too vague in nature for which reference can be drawn from 2000(3)RCR(Criminal) 135 (P&H) titled Raj Pal Singh vs. State of Haryana, 1988(1) RCR, 532(P&H) titled Jasbir Kaur ec. vs. Kamaljit Kaur and 2009(2)RCR(Criminal) 956(P&H) titled Harmanpreet Singh Ahluwalia and others vs. State of Punjab and others. The authorities cited by the ld. defence counsel are squarely applicable to the present case.

In view of the above discussion, prosecution has miserably failed to prove the guilt of the accused to the hilt. Hence, accused are acquitted of the charges levelled against them. Their bail bonds and surety bonds are discharged. File be consigned to record room.

The complainant had preferred an appeal against the said judgment passed by trial Magistrate, which was assigned to learned Additional Sessions Judge, Karnal, however, vide judgment dated 4.8.2014 learned Additional Sessions Judge, Karnal 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.

16.8.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No