

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

CRR-3684-2016(O&M)

Date of decision:-11.9.2018

Ashok

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.D.K. Jangra, Advocate
for the petitioner.

Ms.Aditi Girdhar, AAG, Haryana.

H.S. MADAAN, J.

Ashok Kumar – husband, Hawa Singh – father-in-law and Bhateri – mother-in-law of complainant – Jyoti Rani faced trial by Judicial Magistrate Ist Class, Meham for the offences under Sections 498-A, 406 IPC and vide judgment dated 2.12.2015, all the three accused were convicted for an offence under Section 498-A IPC and in addition to that accused Ashok Kumar was also convicted for the offence under Section 406 IPC and vide order of that very date, they all were sentenced to undergo simple imprisonment for a period of two years and to pay a fine of Rs.2,000/- each for the offence under Section 498-A IPC and in default of payment of fine, to further undergo simple imprisonment for a period of one month each. Accused Ashok Kumar was further sentenced to undergo two years simple imprisonment and to pay a fine of Rs.2,000/-

for the commission of offence under Section 406 IPC. Both the sentences were ordered to run concurrently.

Briefly stated, the facts of the case as per the prosecution story have been that the complainant was married with Ashok son of Hawa Singh and Bhateri, residents of village Dharwanwas, District Bhiwani on 2.12.2007; that at that time of marriage, the parents of complainant had spent sufficient amount giving considerable dowry, however, husband and parents-in-law of the complainant were not satisfied with the dowry and on the very next day of marriage, they started humiliating the complainant for bringing less dowry; the accused demanded a motorcycle but the complainant stated that she could not get that demand fulfilled keeping in view the financial condition of her father; the complainant was given beatings by the accused; the complainant was sent to her parental home for bringing Rs.40,000/-; the father of the complainant had convened a Panchayat but in vain, however, he arranged Rs.20,000/- and gave it to father-in-law of the complainant; the things remained normal for some time but the accused started harassing and maltreating the complainant again pressurizing her to bring remaining Rs.20,000/-; that amount was also given by father of the complainant in June, 2008, who arranged that amount by raising loan; in October, 2008, brother-in-law of the complainant tried to make illicit relations with the complainant, however, the complainant protested, then the accused tried to kill her by giving her electric shock; in January, 2009, the husband of the complainant demanded Rs.2 lakhs for purchasing a car; on complainant showing inability to get that demand met, the husband of the

complainant and her brothers in law again gave electric shock to her with an intention to kill her; the complainant was sent to her parental home, where she disclosed everything to her parents; the father of the complainant went to matrimonial home of the complainant and tried to counsel the accused but in vain; in June, 2009 the father of the complainant gave Rs.1,50,000/- to the accused by raising loan from some quarter in a hope that marital life of complainant shall become happy, however, after some days, accused again demanded remaining amount of Rs.50,000/- and when the complainant stated that it was not possible for her to get that demand fulfilled, then she was locked in a room and beaten up mercilessly; she was not given any food to eat for two days; the complainant pleaded with the accused that her father was a poor man and was not in a position to fulfil their demands, then accused tried to kill her; the accused sent the complainant to her parental home for bringing the amount; the father of the complainant convened panchayats went to house of accused; the accused persons misbehaved with father of the complainant as well as Panchayat members. Then the complainant had submitted a written complaint to the police, which formed basis for registration of the formal FIR. Thereafter, the investigation in the case started. Vinod Kumar, Sunder @ Surender and Manohar Lal named as culprits in the written complaint were found to be innocent, whereas finding sufficient material against Ashok, Hawa Singh and Bhateri, they were challaned, whereas names of Vinod Kumar, Sunder @ Surender and Manohar Lal were placed in column No.2 of the challan.

On presentation of challan in the Court of Judicial

Magistrate, copies of documents relied upon in the challan were supplied to the accused free of costs as provided under Section 207 Cr.P.C.

Learned Judicial Magistrate Ist Class, Meham finding that charge for offences under Sections 498-A, 406 IPC was disclosed against the accused, charge-sheeted the accused for the said offences, to which, they pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

To bring home guilt to the accused, the prosecution examined as many as eight witnesses as per the details below:

PW1 Jyoti Rani – complainant stated her tale of woes on oath as mentioned in the written complaint.

PW2 Shyam, a Priest deposed that he had performed rituals of marriage between the complainant and accused Ashok as per Hindu rites.

PW3 Constable Chand Ram stated that on 2.3.2011, ASI Dharampal gave him three postal envelopes and he delivered one of each to DSP, Meham, SP, Rohtak and SDJM, Meham.

PW4 Satyaveer, father of the complainant supported the case of prosecution on material aspects with regard to maltreatment and harassment of his daughter Jyoti Rani at the hands of the accused in connection with demand of dowry.

PW5 Raj Singh, lent support to the case of the prosecution testifying regarding the accused harassing the complainant and father of complainant raising a loan of Rs.1,50,000/- from him for giving it to the accused persons for the purpose of purchasing a car.

PW6 SI Gordhan Singh, who had joined the investigation deposed regarding what had transpired in his presence.

PW7 HC Anil Kumar stated that on 16.6.2011 while he had joined the investigation along with ASI Ballu Ram, accused Sunil had suffered a disclosure statement and he had attested the same.

PW8 Lady Constable Kavita, who had attested seizure memo Ex.PW8/A deposed regarding the same.

Thereafter, the prosecution evidence was closed by Court order.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against them were put to such accused but they denied the allegations contending that they are innocent and have been falsely involved in this case.

Accused did not lead any evidence in their defence.

After hearing arguments, learned Judicial Magistrate Ist Class, Meham convicted and sentenced the accused as mentioned supra.

Feeling aggrieved, the accused had preferred an appeal to the Court of Sessions, which was assigned to learned Additional Sessions Judge, Rohtak. The accused/appellant Hawa Singh had died during the pendency of the appeal, therefore, the appeal qua him stood abated. The appeal was accepted partly. The judgment of conviction and order of sentence qua accused Bhateri were set aside, however, those were upheld as regards accused Ashok Kumar. He was taken into custody to undergo the remaining sentence, which left petitioner – accused Ashok aggrieved and he has filed the present revision petition, notice of which was issued

to the respondent – State, who put in appearance through counsel.

I have heard learned counsel for the petitioner-accused-convict and learned Assistant Advocate General for the State of Haryana besides going through the record.

Both the Courts below have returned concurrent findings that charge for the offences under Sections 406 and 498-A are fully proved against accused Ashok Kumar from the evidence adduced by the prosecution and other facts and circumstances of the case. The courts below were justified in reaching such conclusion. The conviction and sentence of the accused for such offences do not call for any interference.

Thus I do not find any illegality and irregularity in the judgments passed by the Courts below. Rather the judgments are based upon proper appraisal and appreciation of evidence and correct interpretation of law.

Learned counsel for the petitioner has referred to authorities ***Rekha Sethi Versus Deepak Chadha, 2007(3) Law Herald 1935, Saheb Singh and Ors. Versus State of Bihar and Anr., 2010(4) Ecr.C 117*** and ***Krishan Jeet Singh Versus State of Haryana, 2003(1) RCR (Criminal) 183***. But those authorities do not find application to the present case due to different facts and circumstances and the context in which such observations have been made.

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

Petitioner/accused Ashok is stated to be on bail granted to him by this Court while suspending his sentence. His bail is cancelled. Chief Judicial Magistrate, Rohtak is directed to issue arrest warrant to get him arrested so as to make him undergo the remaining sentence.

11.9.2018

Brij

(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**