

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 3139 of 2017 (O&M)
Date of decision : October 10, 2018

Jasmeet Kaur

....Petitioner

versus

Jasbir Singh and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Harparteek Singh Sandhu, Advocate,
Amicus-curiae for the petitioner

Fateh Deep Singh, J. (Oral)

This is a criminal revision filed by the complainant-victim whereby her case bearing FIR No. 172 dated 20.4.2010 under Sections 406, 498-A, 506 IPC, Police Station Nissing, District Karnal was dismissed against accused Jasbir Singh and his mother Joginder Kaur vide judgment dated 12.10.2015 of the court of learned Judicial Magistrate Ist Class, Karnal and which finding was upheld through impugned findings by the court of learned Additional Sessions Judge, Karnal thereby dismissing the appeal of the complainant.

Heard Mr. Harparteek Singh Sandhu, Advocate, Amicus-curiae for the petitioner and perused the records.

The brief facts that emanates are that a marriage between complainant Jasmeet Kaur and accused-respondent Jasbir Singh was solemnized on 30.10.2009. It is alleged by the complainant that at the time of marriage her parents had given sufficient dowry articles and spent amount of about Rs 3,50,000/-. The articles of Ishtridhan were handed over to the accused at Nissing. However, after the marriage the accused were not happy with the dowry and often taunted her on account of its insufficiency but initially the complainant bore the same hoping against hope but to not avail. With the passage of time, the accused side demanded a car or in its place a sum of Rs 2 lacs in cash and threw out the complainant out of the matrimonial home when she failed to fulfill by it. The complainant filed a complaint against the accused under Section 156(3) of the Cr.P.C. on the basis of which the present case was got registered and upon completion of investigations, report under Section 173 Cr.P.C. was filed.

The Court framed the charges against accused Jasbir Singh and Joginder Kaur under Sections 406, 498-A, 506 IPC to which they pleaded not guilty and claimed trial.

The prosecution at the time of trial examined Jasmeet Kaur as PW1, her mother Rajwant Kaur as PW2 and thereafter ASI

Ram Chander (Rtd) as PW3, SI Joginder Singh as PW4, SI Prem Singh (Rtd) as PW5, ASI Dharambir Singh as PW6, Vikramjit Singh, brother of the complainant as PW7, HC Rakesh Kumar as PW8, SI Babu Lal (Rtd) as PW9 and one of the witness of the marriage Harpreet Singh as PW10. Thereafter the prosecution evidence was closed.

The accused made their statement under Section 313 Cr.P.C. denying the allegations and in the defence examined DW1 accused Jasbir Singh and thereafter closed the same after proving documents Ex. D1 to D6. Consequent thereupon the court of learned Judicial Magistrate Ist Class, Karnal dismissed the case of the complainant acquitting the accused holding that the prosecution has failed to prove its case. Upon appeal through impugned findings dated 17.7.2017, the court of learned Additional Sessions Judge too dismissed the appeal and that is how the present invocation has come about before this Court.

Appreciating the submissions of the counsel for the petitioner, as is writ large on the records of the case and has well taken note of by the trial court as per the own admission of complainant after the marriage on 30.10.2009 for a period between 18.11.2009 to 29.11.2009, the complainant had stayed at her parental house and for almost for 10 days claims to have moved about along with her husband and therefore, a very short period of

stay is highlighted in her allegations at her matrimonial home. It is well proved on the records the husband had filed in April, 2010, a petition under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights when on the other hand the wife claims that she was thrown out of her matrimonial home on 11.1.2010. To corroborate this fact he had taken the stand before the matrimonial court by way of Ex. D1 and D2 that she does not wants to reside with the husband and rather reflects that she has on her own deserted her matrimonial home. Further more as has come in the arguments, there has been sharp contradiction in the story of the complainant though she claims that repeatedly Panchayats were convened but nothing tangible is established by any independent means to this effect. The allegations of demand of dowry as well as physical torture by the accused side is bereft of any finer details. The allegations are vague and ambiguous and thus puts the Court on its guard to scrutinize the evidence with more care and caution. More-so the wife had taken a categoric stand in the matrimonial proceedings that she is not willing to live with the husband together with the fact as has been observed while scanning the evidence of the complainant by the trial court that there is material improvement by her in her complaint to the police over and above to her earlier complaint/application made before Parivar Pramارش Kendra, Karnal which has been proved as Ex. PW1/D. The testimony of the mother

as PW2 that she contacted the accused to rehabilitate her daughter certainly is in sharp contradiction to the stand of her daughter, the complainant who has refused to join her matrimonial home. The most material aspect as has been highlighted in the judgment of the courts below shows that while the testimony as PW1 and PW2 the material witnesses, the complainant and her mother, they were unable to give the name of the place from where they purchased dowry articles nor any proof of their purchase has been brought on the records are certainly matters of much significance.

Revisionist Jasmeet Kaur has invoked the revisional jurisdiction of this Court against an order of acquittal and which powers needs not be exercised at the mere asking and can only be done so in exceptional cases where the ends of justice demand interference for a correction of manifest illegality or prevention of gross miscarriage of justice. Nothing could be brought to the notice of this Court any element to this effect. Thus finding no illegality or perversity in the concurrent findings of the courts below, the same needs to be upheld. The revision being hopelessly without merits stands dismissed.

October 10, 2018

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**(Fateh Deep Singh)
Judge**

*Whether speaking/reasoned ?
Whether Reportable ?*

*Yes/No
Yes/No*