

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

RSA No.4130 of 2013 (O&M)

Date of decision : 16.11.2018

Sharanjit Kaur

...Appellant

Versus

Jasvir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vivek Goel, Advocate for the appellant.

Ms. G.K. Mann, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant is in the Regular Second Appeal against the judgment passed by the learned First Appellate Court slightly modifying the judgment and decree passed by the trial Court.

The plaintiff, married wife of defendant No.1 had filed a suit for returning of dowry articles or in the alternative decree for recovery of ₹2,14,400/-.

The defendants contested the suit and pleaded that all the dowry articles have already been recovered by the police in the FIR No.25 dated 21.03.1998 and these dowry articles are in the custody of the police.

On appreciation of the evidence, learned trial Court held that the dowry articles are in the custody of the police and, therefore, the suit qua return of the dowry articles cannot be decreed. However, learned trial Court

ordered the recovery of ₹50,000/- on the ground that some of the articles were not recovered by the police.

Two appeals were preferred, one by the plaintiff and other by the defendants. The First Appellate Court, on re-appreciation of the evidence, dismissed the appeal filed by the plaintiff whereas accepted the appeal filed by the defendants while recording as under:-

“17. After holding that plaintiff has not been able to prove on record either the dowry articles or scooter or the gold ornaments, learned Lower Court held that plaintiff is entitled to the recovery of Rs.50,000/- from the defendants regarding some of the articles which could not be recovered from the possession of the defendants. This Court is of the considered opinion that learned lower court has erroneously held the plaintiff entitled for the recovery of Rs.50,000/- from all the defendants. Nothing has been mentioned in the impugned judgment as to which of the articles could not be recovered from the possession of the defendants. No detail of such articles has been mentioned regarding which defendants have been made liable to pay the amount. Once, the Court had come to the conclusion that the dowry articles are lying in the police station and that no gold ornaments are in possession of the defendants, it was wrong in holding that some of the articles could not be recovered from the possession of the defendants without mentioning its detail. The articles as mentioned in the bills placed on record by the plaintiff i.e. mixie, utensils and beddings etc already stood mentioned in the application Ex.D2 showing that these articles are lying in the police station. Therefore, findings of learned lower Court wherein it has held that all the defendants are liable to pay Rs.50,000/- to the plaintiff are hereby set aside being

erroneous and without any basis.”

This Court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by both the Courts below and the records.

Learned counsel for the appellant, although made a sincere attempt, however, could not draw attention of the Court to those articles which have not been recovered by the police. Thus, learned counsel for the appellant was unable to point out any error warranting any interference.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

16.11.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No