

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

**CRM-A No. 524-MA of 2018 (O&M)  
Date of Decision: 27.11.2019**

Rajni Thakur

..... Appellant

**Versus**

State of Punjab and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH  
HON'BLE MR. JUSTICE GIRISH AGNIHOTRI**

Present: Mr. H.S. Deol, Advocate  
for the applicant-appellant.

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**JASWANT SINGH, J.**

1. Present application has been filed under section 378 (4) of the Code of Criminal Procedure, 1973 (in short “the Code”) for grant of Leave to Appeal against the judgment dated 04.09.2017 passed by learned Additional Sessions Judge, SAS Nagar, Mohali, whereby ***respondent No. 2 /accused (Manish Kataria)*** has been acquitted for the commission of offence under ***Sections 313 and 506 of Indian Penal Code in short (IPC), while convicting and sentencing him only for offence under Sections 406 and 498-A of IPC.***

2. Tersely put the facts of the prosecution case are that ***PW-2 Rajni Thakur (Complainant)*** was married to ***accused No. 1 / Manish Kataria son of Satish Kataria (respondent No.2 herein)***. This was the second marriage of the parties. Complainant *Rajni Thakur - PW2* became pregnant in the month of February, 2014 and she was pregnant for about six weeks and after getting the ultrasound test got done from *Dr. Baljeet Kaur* on 03.03.2014, the fetus was found to be well. Unfortunately, ***Satish Kataria's (accused No. 2)*** wife namely *Santosh Kataria* and who was

*Mother-in-Law* of the complainant was constantly intoxicating her husband for raising demand of dowry from complainant. Both the respondents/accused (***Manish Kataria & Satish Kataria***) were also forcing her to determine the sex of the fetus because complainant was already having female child from her previous marriage and when she did not oblige their request, she was given beatings by accused No.1 / *Manish Kataria (respondent No.2 herein)*. On 10.03.2014 accused / *Manish Kataria* gave severe beatings on the abdomen of complainant and also other parts of the body. On receiving the beatings from the hands of *respondent No.2/accused (Manish Kataria)*, her condition became very miserable and thereafter she was removed to doctor for medical help. She was also subjected to ultrasound examination of the fetus in her womb and it was found that fetus in the womb was dead. Thereafter, fetus of complainant was aborted at *CMC, Sector-17, Chandigarh*. Later on, for few days, everything was going normal, but her in-laws remained to torture her. On 12.03.2014, she was taken to *Faridabad* by *accused No.2 (Satish Kataria)*, where the worst treatment was given to her. Thereafter, she remained with *accused/Respondent No.2 (Manish Kataria)* at village *Nayagaon*. However, she remained under mental stress and shock. *Accused No.1/Respondent No.2 (Manish Kataria)* also started pressurizing her to have intercourse with him but she refused, and as a result of which, accused No.1 extended threat to kill daughter of complainant. On 08.08.2014, complainant was also given beatings by accused No.1, while she and accused No.1 coming back from *Amritsar*. Subsequently, she was also given beatings by accused No.1 on number of times and on the basis of these allegations, an F.I.R. was

*A, 313 and 506 IPC* and on completion of other necessary formalities of investigation, the report under *Section 173 Cr.P.C.* was presented before the Court. Copies of documents relied upon by the prosecution as envisaged under *Section 207 Cr.P.C.* were supplied to the accused free of costs and the the case was to be triable by Court of Sessions and after completing the commitment proceedings, the case was committed to the Court of Sessions.

Finding a *prime facie* case, *accused No.1/respondent No.2 (Manish Kataria)* was charge-sheeted for the commission of offences under *Sections 406, 498-A, 313 and 506 of IPC*, to which, he pleaded not guilty and claimed trial.

To prove its case against the respondent No.2/accused No.1 (*Manish Kataria*), the prosecution has examined the following eleven (11) witnesses:-

“ **Amritpal** as PW-1, **Complainant-Rajni Thakur** as PW-2, **Karan Singh Thakur** (father of the complainant) as PW-3, **Dr. Vijay Lakshmi** as PW-4, **Mukesh Kumar** as PW-5, **Dr. Baljit Kaur** as PW-6, **Raj Kumar** as PW-7, **Ajay Kumar** as PW-8, **Retired SI Bimal Krishan** as PW-9, **Retired SI Bimal Krishan** was again examined as **PW-9** after allowing application u/s 311 Cr.P.C., **Inspector Raghbir Singh** as PW-10 and **Inspector Birbal Singh** as PW-11.”

On completion of prosecution evidence, the statement under *Section 313 Cr.P.C.* was recorded by the Sessions Court in which all the incriminating circumstances appearing by way of evidence of prosecution against the respondent/accused No.1 (*Manish Kataria*) were put to him and he pleaded his innocence and false implication. Chance of defence was

*Hiranandani and Meenakshi Sharma* were examined as *DW-1 and DW-2*, respectively.

On the basis of weak evidence produced by the prosecution against the present respondent/accused No.1 (Manish Kataria), he has been acquitted of the charges for the commission of offences under ***Sections 313 and 506 of Indian Penal Code, while convicting and sentencing him only for offence under Sections 406 and 498-A of IPC.***

3. We have heard the learned counsel for the applicant/appellant and have also gone through the paper-book very carefully with his assistance.

The pivotal question before the Court is as to whether the Trial Court has rightly acquitted the *respondent No.2/accused No.1 (Manish Kataria)* husband of the applicant/complainant (**Rajni Thakur**) for the commission of offences under ***Section 313 and 506 of IPC.***

The Trial Court has given much importance to the statement of ***Dr. Baljit Kaur***, who appeared as prosecution witness as *PW-6* and she went on to say that as per Modi Medical Jurisprudence upto first twelve weeks of pregnancy, uterus remains in the cavity of pelvis. Moreso, *PW-4 (Dr. Vijay Lakshmi)* has testified that case of complainant was not ***MTP (Medical Termination of Pregnancy)***, but it was case of natural abortion. She also testified that spontaneous abortions are common in early pregnancy. This witness also stated that she did not notice any external injuries on the person of patient/complainant, while she was subjected to medical examination. In this manner, on the basis of medical evidence available on the record, it can be safely concluded that it was not the case of

premature expulsion of the child or foetus from the mother's womb at any time of pregnancy before the term of gestation is completed. However, in the instant case, on the basis of sole statement of complainant, which has neither been supported nor is corroborated by the medical evidence that there was forcible miscarriage of her pregnancy at the hands of both the respondents/accused.

In this manner, we can say that there was no cogent and convincing evidence, which could bring the case of the prosecution within the four corners of commission of offences under **Sections 313 and 506 of IPC**.

As such, the Trial Court has rightly observed in the impugned judgment that prosecution has failed to prove its case for the commission of offences under **Sections 313 and 506 of Indian Penal Code** and has rightly acquitted the *accused/respondent No.2 (Manish Kataria)* by giving him benefit of doubt for these offences.

4. In view of the above discussion, this Court is of the opinion that the trial Court, while appreciating the entire evidence in its proper perspective, has rightly held that the prosecution has failed to prove its case against the *accused/respondent No.2 (Manish Kataria)* beyond any reasonable doubt. Thus, no case for any kind of interference in the impugned judgment is made out. The view of the trial Court is hereby affirmed and is maintained.

The instant **application** is without any merit and, therefore, **dismissed**. Leave to Appeal is declined.

5. It is also made clear that any observation given by us will not

case any appeal or revision is preferred by any of the party vide which the Trial Court has convicted the *respondent No.2/accused (Manish Kataria)* for commission of offences under ***Sections 406 and 498-A of the IPC.***

( JASWANT SINGH )  
JUDGE

November 27, 2019  
'dk kamra'

( GIRISH AGNIHOTRI )  
JUDGE

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|----------------------------------|---------------|
| <i>Whether Speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether Reportable</i>        | <i>Yes/No</i> |