

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-2052-MA-2015(O&M)
Date of Order:24.10.2019

Baljit Kaur

..Appellant

Versus

Sarmail Singh and others

..Respondents

CRM-A-2062-MA-2015(O&M)

Baljit Kaur

..Appellant

Versus

Sarmail Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amandeep singh Manaise, Advocate
for the appellant(in both the cases)

ANIL KSHETARPAL, J.

CRM No.41645-2015 in CRM-A-2052-MA_2015

For reasons mentioned in the application, delay of 1367 days
in filing the appeal is condoned.

MAIN

By this order, CRM-A-2052-MA-2015 and CRM-A-2062-MA-
2015 shall stand disposed of.

Vide CRM-A-2062-MA-2015, prayer is to grant special leave
to appeal under Section 378(4) of the Code of Criminal Procedure against
the judgment passed by the Court of Sessions, vide order dated 17.09.2015.

In CRM-A-2052-2015, judgment of acquittal passed by the Judicial Magistrate, vide order dated 11.01.2012, has been challenged.

Petitioner-Baljit Kaur has filed a criminal complaint before the learned Judicial Magistrate Ist Class complaining that she was married with Sarmail Singh, accused No.1, on 09.12.2002. The complaint was filed by implicating all the family members including husband, father-in-law, mother-in-law, 2 brothers-in-law and their wives, married sister-in-law along with her husband.

Allegations in the complaint are that on being dissatisfied by the dowry given, petitioner was harassed and was given beatings. She claims that in April, 2003 she was given beatings and turned out of the house. However, on intervention with her parents, she was permitted to reside in the matrimonial home. Thereafter, once again she was given beatings and turned out of the house in July, 2003. Thereafter, she gave birth to the girl child on 03.09.2003, expenses whereof were borne by her parents. Once again demand for dowry was made and she was given beatings on 15.09.2005 and turned out of the house. A police complaint was made, however, since no action was taken, therefore, petitioner filed this criminal complaint.

Learned Judicial Magistrate issued process against Sarmail Singh, Malook Singh, Jaswant Kaur and another accused against whom later on the proceedings were quashed by the High Court. Learned Judicial Magistrate after appreciating the evidence available on the file convicted 3 accused named above, under Section 498-A of the Indian Penal Code and sentenced them to undergo rigorous imprisonment for a period of one year with fine of Rs.500/- each, in default of payment of fine, the convicts shall

further undergo simple imprisonment for a period of 15 days.

Convicts filed appeal, whereas petitioner filed a revision. Learned court of Sessions after re-appreciating the evidence acquitted the accused while accepting their appeal, whereas the revision petition filed by the petitioner was ordered to be dismissed as not maintainable.

This Court has heard learned counsel for the petitioner at length and with his able assistance gone through the judgments passed by the courts below.

Learned counsel for the appellant/petitioner contended that learned trial Court failed to record any finding on offences under Sections 323 and 506 IPC and hence the judgment is liable to be set aside. He further submitted that the first appellate court committed an error in accepting the appeal while setting aside the judgment of conviction passed by the trial Court under Section 498-A IPC.

On careful consideration of the judgment passed by the learned court of Sessions, it is apparent that the appellate court recorded finding on re-appreciation of evidence. The Court found that in the complaint, petitioner has pleaded about specific incidents on 13.04.2003, May 2003, July 2003, December 2003, May 2004 and 15/09/2005, whereas when she appeared in evidence she did not make any statement with regard to the incidents on April 2003 and May 2004. Rather she deposes regarding 2 other incidents on 22.04.2005 and 04.09.2005, which are not part of the complaint. The petitioner has in her complaint pleaded that her parents gave Rs.12,000/- in May 2003, Rs.10,000/- in December 2003, Rs.15,000/- in December 2004 but she did not state anything about Rs.15,000/- allegedly given by her parents to her-in-laws in December 2004 while

appearing in evidence. Further, it is pleaded by the petitioner that she was turned out of the house after giving beatings on 15.09.2005 but when she appeared in evidence she has stated that she was not turned out of the house by the accused but had gone along with the members of the panchayat from her matrimonial home.

She has deposed that she went from the matrimonial home in the night of 15.09.2005, whereas her medico legal report shows that she was examined by PW2 Dr. Kamaljeet Singh at 1.30 P.M on 15.09.2005. When the petitioner was subjected to cross-examine she could not specifically deny that her husband Sarnail Singh had obtained paternity leave for a period of 15 days expecting delivery. Fact regarding pregnancy of the petitioner was verified from her by the department. She has also admitted that she remained admitted in hospital under Punjab Government category. Thus, it is proved on file that the stand taken by her in the complaint that the delivery took place in the house of her parents on 03.09.2003 has not been established and rather found otherwise.

As regards first argument of learned counsel, it may be noted that the learned court of Sessions on appreciation of the evidence of the doctor and the petitioner has found that the petitioner has failed to prove that the injuries as attempted to be established from the medico legal report, were result of beatings given by the accused. Thus, the court of Sessions has examined offence under Section 323 Cr.P.C. Further, petitioner has failed to establish offence under Section 506 IPC which deals with offence of criminal intimidation.

Learned court of Sessions has taken a reasonable and plausible view. The scope of appellate court while hearing appeal against acquittal is

limited. Learned counsel failed to draw attention of the court to any perversity or substantive error in the judgment passed by the court of Sessions.

Hence, both the petitions are dismissed.

October 24, 2019
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No