

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

CRM-A No.272-MA of 2015 (O&M)

Date of decision: 27th February, 2019

Gurinder Kaur Arora @ Ani

... Applicant

Versus

Harmit Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vivek Salathia, Advocate for the applicant.

Mr. Rajinder Sharma, Advocate for the respondent.

FATEH DEEP SINGH, J.

Applicant Gurinder Kaur Arora alias Ani who had initially filed a criminal complaint against Harmit Singh, Rajinder Singh Arora and Pritpal Kaur, present respondents, under Sections 406/498-A/506 IPC pertaining to Police Station B Division, Amritsar. The allegations are that she was married to Harmit Singh and there arose a matrimonial dispute between the husband and the wife including Rajinder Singh father-in-law and Pritpal Kaur mother-in-law, and it is during the course of events on 13.06.1999 a male child Kashish, who is presently with Harmit Singh, was born to the couple but on account of demand of dowry, harassment and cruelty, she could not carry on with this relationship and hence the complaint in question.

In the preliminary evidence, the complainant has stepped into the witness box as CW1 and examined CW2 Balbir Singh her father and CW3 Bhagwant Singh and thereafter closed the preliminary evidence. It was on the basis of this evidence, vide orders dated 02.07.2008 the accused were summoned for commission of offences under Sections 406/498-A/506 IPC. During the course of the trial, the complainant examined herself as CW1, Bhagwant Singh as CW2, Tejinder Singh as CW3 and Vijay Kumar as CW4 proving photographs as Ex.CW4/1 to Ex.CW4/25 and placing on record certified copy of examination in chief of accused Harmit Singh as Ex.C1 and cross-examination as Ex.C2 in another case and during the course of the same, an application was moved by the complainant for additional evidence to bring into evidence CD of the marriage and which stood allowed vide order dated 23.07.2014 and therefore, in her additional evidence the complainant tendered CD as Ex.CX. On the other hand, the defence examined DW1 Harmit Singh accused proving documents Ex.D1, Ex.D2 and Ex.DX. Consequent upon completion of arguments, vide impugned order dated 11.11.2014, the Court of learned Judicial Magistrate 1st Class held that the complainant has failed to prove her case and thereby giving benefit of reasonable doubt, dismissed the complaint, thus, acquitting the accused of the charges so levelled. It is against these findings, the present case was filed

in which the present application has come about seeking grant of leave to file appeal.

Upon hearing Mr. Vivek Salathia, Advocate for the applicant; Mr. Rajinder Sharma, Advocate on behalf of the respondent and on perusal of the records.

As is evident from the evidence and is the conclusion drawn by the Court below, it was incumbent upon the complainant, upon whom the onus lay heavily to prove her case beyond shadow of reasonable doubt that there was entrustment of dowry articles to the accused at the time of marriage as per their demand and that the accused refused to return back the same on demand by the complainant and further to romp home the allegations under Section 498-A IPC, was supposed to prove the manner with details and particulars of harassment how she was harassed and treated with cruelty and criminally intimidated. However, learned counsel for the applicant could not pin-point even a single piece of evidence from which this Court could visualize that these allegations have been crystallized through legitimate means of legal evidence. Though the complainant has moved application for additional evidence when the case was fixed for defence evidence and has proved the CD of marriage as Ex.CX but to the specific query of the Court, learned counsel for the applicant could not convince how the said CD Ex.CX satisfies the

provisions of Section 65B of the Evidence Act which pertains to admissibility of electronic records. Mere exhibiting of a document, as has been laid down in '**Rakesh Mohindra vs. Anita Beri & others**' 2015(6) (Raj) 101 as well as '**Sait Tarajee Khimchand & others vs. Yelamarti Satyam and others**' 1971 AIR SC 1865, does not dispense with its proof and on account of utter failure of the applicant to prove this document Ex.CX in accordance with law, the same cannot be considered and relied upon as a piece of legal evidence. Furthermore, nowhere in her testimony the complainant as CW1 or her witnesses CW2 or CW3 could bring about any specific entrustment of any specific article of Istridhan to any of the respondents and also the fact that the complainant has demanded it back but the accused have usurped the same and committed breach of trust, much less any single instance with particulars of cruelty or intimidation by the respondent side. The Court below has appreciated the fact that in her cross-examination the complainant has made contradictory statements as to the dowry articles stating that the lists were prepared by her father and she shows her total ignorance of the same together with the fact that the complainant herself states that the articles mentioned in the lists were given to the accused for their individual use and were never entrusted to them and therefore, puts to doubt the very veracity of these allegations and there is nothing more to suggest

applicability of Section 498A or 506 IPC. The Court below has given a well reasoned finding, appreciating the evidence in right perspective and therefore, finding no merit the present application is hereby dismissed.

Leave to appeal is declined.

(FATEH DEEP SINGH)
JUDGE

February 27, 2019
rps

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