

101.

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

CRR-4207-2014 (O&M)

Date of decision: 04.09.2019

KESH RAM

... Petitioner

versus

MOHIT SINGLA AND ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Vivek Rattan, Advocate, for the petitioner.

HARI PAL VERMA, J. (Oral)

CRM-39113-2014

Prayer in this application filed under Section 5 of Limitation Act is for condonation of delay of 35 days in filing the present revision petition.

For the reasons stated in the application, same is allowed and the delay of 35 days in filing the present revision petition is condoned.

CRR-4207-2014

Petitioner-complainant has filed the present revision petition impugning the order dated 11.07.2014 passed by learned Sessions Judge, Fatehabad, whereby the revision filed by the respondents-accused against the order dated 26.05.2014 passed by learned Judicial Magistrate Ist Class, Tohana, was allowed, and the complaint filed by the petitioner for offence punishable under Sections 406, 498-A read with Section 34 and Sections 312 and 314 of IPC was dismissed.

Vide order dated 26.05.2014, the learned Magistrate has ordered summoning of the respondents-accused to face trial for offence under Sections 498-A, 406 read with Section 34 of IPC.

Petitioner is the complainant, whose daughter-Sunita was married with Mohit Singla (respondent No.1 herein), whereas respondent No.2 is his brother and respondents No.3 and 4 are his parents. The marriage between the parties was solemnized on 19.04.2008.

Counsel for the petitioner has argued that there was enough material before the court below for summoning the accused to face trial under Sections 498-A, 406 read with Section 34 of IPC and it is for this reason, the learned Magistrate has summoned the accused to face trial. However, the revisionary court, without appreciating the evidence and the statement of the complainant, as referred in the order passed by the learned Magistrate, has illegally accepted the revision petition filed by the respondents, and set aside the summoning order. Counsel has further argued that as the respondents were not satisfied with the dowry articles given in the marriage, they demanded more dowry and accordingly, the deceased was subjected to mental and physical cruelty. She was suffering from a throat problem after marriage, but instead of extending any treatment to her, she was harassed for demand of dowry.

Having heard counsel for the petitioner, this Court finds that even the doctor, who examined the deceased, had observed that the deceased has some heart problem. The learned Sessions Judge, while passing the order dated 11.07.2014, has examined the evidence of the petitioner-complainant. It has come on record that the deceased was a heart patient and she was taken for treatment to various hospitals such as DMC, Ludhiana, Fortis Hospital, Mohali and Singla Hospital, Jakhal. During this period of treatment, two valves of her heart were replaced on 24.09.2008, but on

account of this continuous ailment, she died on 05.02.2010 at Singla Hospital, Jakhal. There is nothing on record to suggest that the postmortem was ever conducted or deceased ever made any statement that she was ill-treated by the accused. In fact, the finding recorded in the case is that she died a natural death on 05.02.2010, as she was a patient of heart problem. Her treatment from various hospitals further fortifies the fact that the deceased has died on account of ailment. Moreover, except the oral testimony of the complainant and a member of the family, there is no such evidence on file to show that the dowry articles given to the deceased at the time of marriage were ever entrusted to either of the accused. Neither any list of dowry articles including the detail of cash was prepared nor it was proved that any of the accused put their signatures on the same. In the evidence of parents and brother Hari Krishan CW5, there is no such specific allegation about time, date or month when the deceased was subjected to cruelty. Thus, in the absence of such minimum required allegations, even the learned Magistrate should not have issued summoning of accused. Even entrustment of dowry articles have not specifically been pleaded in the complaint.

Thus, there being a finding that the deceased had died because of heart problem, this Court does not find any reason to interfere in the well reasoned order passed by learned Sessions Judge dated 11.07.2014.

Dismissed.

(HARI PAL VERMA)
JUDGE

04.09.2019
sanjeev

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