

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

**CRM-A-721-MA-2017 (O&M)
Decided on : 12.03.2020**

Balwinder Kaur

. . . Applicant(s)

Versus

Kulwinder Kumar @ Buntty & Ors.

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Ms. Rajni Maurya, Advocate
for the applicant(s).

MANJARI NEHRU KAUL, J. (Oral)

The present application has been filed under Section 378 (4) Cr.P.C., seeking grant of special leave to appeal against the judgment of acquittal dated 06th January, 2017, passed by the learned JMIC, Hoshiarpur, whereby, the respondents were acquitted of the charges under Sections 406, 498-A, 506, 34 IPC, in a CrI. Complaint, titled as, “Balwinder Kaur Vs. Kulwinder Kumar @ Buntty and others”.

The case of the applicant-complainant in brief is that she was married to respondent No.1 – Kulwinder Kumar @ Buntty on 01.07.2007. At the time of marriage, a huge amount of money had been spent by her parents and sufficient dowry had been given to the respondents along with istridhan. Her gold ornaments along with other household articles were entrusted to the respondents. However, the respondents were unhappy with the dowry which the complainant had received at the time of her marriage, for which she would be subjected to continuous mental and physical torture. The complainant bore the maltreatment meted out to her in the hope that in due course of time better sense would prevail upon the respondents.

However, the behaviour of the respondents just worsened with the passage of time, as demand of motorcycle was made along with cash amounting to Rs. 50,000/- by respondent No.1 for purchase of a goods vehicle. As the complainant was unable to fulfill the illegal demands of the respondents, she was subjected to merciless beatings by them. Not only this, her brother-in-law also sought sexual favours from her on an assurance that in case she obliged him, the mental torture, which was being meted out to her, would stop. Left with no other option, she revealed her woes to her parents, who then convened a panchayat. In the panchayat, so convened, the respondents stuck to their demand of cash and motorcycle etc. or in the alternative, the parents of the complainant were told to take her back. The parents of the complainant assured the respondents that as and when they would have the finances, they would try to fulfill their demands. However, this assurance failed to pacify the respondents, who continued to harass and torture the complainant. In February, 2008, the complainant was thrown out of her matrimonial home after being subjected to merciless beatings. A complaint was moved by her father to the Sarpanch of the village on 23.03.2008. The panchayat got the matter compromised between the parties. The respondents tendered an apology. They took the complainant back to their house. This too was short lived as the respondents tried to kill the complainant. However, with the efforts of the family of the complainant, she once again returned to her matrimonial home. In April, 2008, the complainant delivered a male child at her matrimonial home. The respondents expressed their unhappiness with the gifts given by the complainant's parents at the time of birth of the new born baby. The respondents persisted with their demands of Rs. 1.00 lakh and warned the

parents of the complainant that in case their demand was not fulfilled, the complainant would be eliminated. The father of the complainant was left with no other option but to approach the police on 14.07.2008 and seek assistance. The complainant was, thereafter, brought back to her parental home. Yet again, a panchayat was convened by the parents of the complainant, however, the respondents refused to take the complainant back till their demands were met. Thereafter, persisted efforts were made by the complainant and her parents to get the matter amicably settled, but in vain. When the complainant demanded back her istridhan, it was refused by the respondents. It was in the above factual background, the complainant was left with no other option but to move the criminal complaint in question before the Court below.

Finally, on the basis of preliminary evidence led by the complainant, respondents No.1 o 3 were ordered to be summoned to face trial for offence under Sections 406, 498-A, 34 IPC. The complainant in support of her case examined as many as five witnesses. She stepped into the witness-box as CW-2 and examined her father Mukand Lal as CW-3, wherein, she reiterated her allegations against the respondents.

All the incriminating evidence appearing against the accused-respondents was put to them under Section 313 Cr.P.C., to which they pleaded innocence and false implication. It was stated by them that the complainant had been pressurizing respondent No.1 – husband to move to her parental home as she suspected him of having illicit relations with his sister-in-law. The respondents in their defence examined two witnesses.

The trial Court on appraisal of the evidence and other material on record acquitted the respondents of the offences charged with.

Learned counsel for the applicant-complainant argued that despite sufficient and cogent evidence having been produced before the Court below, the trial Court failed to appreciate the same and acquitted the respondents of the offences charged with.

I have gone through the impugned judgment and other material available on record.

It is apparent that no cogent, much less, any convincing evidence was led by the applicant-complainant *qua* the alleged demand of dowry on the day of her marriage with respondent No.1. Though there were allegations levelled by the complainant against the respondents that she was subjected to merciless physical assault not once but on a number of occasions, however, no medical evidence in support of the alleged physical assault was produced by the complainant. Further, as per the admission of the complainant's father CW-3 Mukand Lal himself, respondent No.1 – husband of the complainant, already owned a goods vehicle at the time of marriage and a motorcycle had been purchased by respondent No.1 on his return from abroad, with his own money. Not only this, the father of the complainant while deposing as CW-3 admitted that in fact the main dispute between his daughter and her husband was on account of a suspicion, which his daughter had *qua* her husband *i.e.* respondent No.1 having illicit relations with his sister-in-law. Further, the complainant miserably failed to prove any entrustment of dowry articles to the respondents. The bills (Ex. C-2 to C-9) *qua* the dowry articles were not proved as per the provisions of the Evidence Act. Not only this, the testimony of the complainant suffered a serious dent, as the bills (Ex. C-2 to C-9) were dated 07.03.2009, which was not only after almost 2½ years of the marriage of the parties, but also

after the complaint in question was filed against the respondents by the complainant. The complainant, in fact, herself admitted during her deposition as CW-2 that the dowry articles and the istridhan, which were given to her at the time of her marriage, were in her possession and had been under lock and key in her matrimonial home. Another fact, which cannot be lost sight of is that on a complaint moved to the SSP, Hoshiarpur by CW-3 Mukand Lal, an inquiry was conducted with regard to the allegations of harassment meted out to the complainant. In the inquiry, it was found that no such instances of harassment had ever taken place. The complainant miserably failed to rebut the aforementioned inquiry report in any manner whatsoever during the trial before the Court.

In view of the above, I do not consider it to be a fit case for grant of special leave to appeal under Section 378(4) Cr.P.C., as this Court does not find any infirmity or perversity in the impugned order passed by the Court below.

Dismissed.

(MANJARI NEHRU KAUL)
JUDGE

March 12, 2020

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No