

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

CRM-A-81-MA-2015
Decided on : 07.01.2020

Kusum

..... Applicant

Versus

State of Haryana & ors.

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. K.S.Dhaliwal, Advocate
for the applicant.

Manjari Nehru Kaul, J.

Instant application has been preferred under Section 378(4) Cr.PC for grant of leave to appeal against the judgment dated 21.11.2014 passed by Sub Divisional Judicial Magistrate, Safidon in criminal complaint No.1A-1 of 2011 dated 07.01.2011 registered under Sections 498, 406, 323 and 506 IPC, District Jind whereby the accused respondents were acquitted of the charges framed against them.

The complainant got married to respondent No.2 – Jitender @ Kaka on 09.11.2008 according to the Hindu rites and ceremonies. It was alleged that at the time of marriage, sufficient dowry was given and more than Rs.10 lakhs were spent on the marriage. The complainant along with her sisters inherited the land of her deceased mother situated at village Indergarh. After the marriage, the agricultural land inherited by the complainant-wife was transferred by her in favour of her boy cousins regarding which respondents expressed their displeasure and demanded that

the inherited land of her deceased mother as well as land of her father be transferred in the name of respondent No.2-husband else they would not let her continue staying in the matrimonial home nor allow her to conceive a child. Since the complainant was unable to accede to their demands, she would often be subjected to continuous mental and physical harassment. Finally on 30.04.2010, she was turned out of the matrimonial home by the respondents-accused. Thereafter, the complainant filed a complaint to SHO, Police Station Safidon under Section 156(3) Cr.PC for lodging a FIR pursuant to which FIR No.147 dated 12.05.2010 under Sections 498-A, 406, 323 and 506 IPC was registered. During the investigation, aforementioned FIR was cancelled and cancellation report dated 26.04.2010 was presented in Court. It was in this factual background that the complainant filed a protest petition against the cancellation report in the court below. Thereafter, the Court below after following the due procedure as envisaged under Section 190 Cr.PC proceeded with the trial and framed charges under Sections 498-A, 406, 323 and 506 IPC to which the respondents-accused pleaded not guilty and claimed trial.

The complainant in support of her case stepped into the witness box as PW-1 and examined her father as PW-2 and Dayal Singh as PW-3.

On appraisal of the evidence led before the trial court, trial court vide judgment dated 21.11.2014 acquitted the respondents-accused by holding that there was no material either in the form of medical evidence or in the form of specific allegations qua the material facts etc. so as to attract the culpability of the accused persons for the offences charged with under Sections 498-A, 406, 323 and 506 IPC.

Learned counsel for the applicant has argued that the learned court below fell in grave error in failing to appreciate that there was enough cogent evidence on record to show that the applicant was maltreated and thrown out of her matrimonial home within 4½ months of the marriage. Further, the version of the maltreatment meted out to the applicant found full corroboration from the testimony of her father, who stepped into the witness box as PW-2.

I have heard learned counsel for the applicant as well as perused the impugned judgment passed by the Court below.

Findings arrived at by the trial court in the opinion of this Court are well reasoned and do not therefore, warrant any interference. As far as allegations to attract the offence punishable under Sections 323 and 506 IPC are concerned, the trial court rightly extended the benefit of doubt to the respondents as there was no medical evidence whatsoever nor any corroborative evidence to attract the culpability of any of the respondents and more particularly, even the complainant did not utter a single word during her evidence before the trial court qua any assault having been committed on her by any of the respondents. It is very apparent that only vague and unsubstantiated allegations of assault and threat had been levelled against the respondents by the complainant without specifying the time, date or even place where such acts were committed.

Coming to the allegations levelled against the respondents to attract the mischief of Sections 498-A and 406 IPC, the same too are not supported much less substantiated by any cogent and convincing evidence. There is no specific allegation of any entrustment of any article having been

made to any of the respondents. On a perusal of the evidence led, no convincing evidence has come to the fore from which an inference could be drawn that the complainant was being subjected to the alleged harassment so as to pressurize and coerce her to meet the unlawful demands of dowry of the respondents-accused. Once there is absence of any such convincing evidence as also there is no specific entrustment of dowry articles, the question of misappropriation of dowry articles to attract the mischief of Section 406 IPC would not arise. Proof of entrustment is one of the main ingredients to bring home the offence of criminal breach of trust so as to attract an offence punishable under Section 406 IPC.

In view of the above, no ground for interference is made out. Accordingly, the instant application stands dismissed.

07.01.2020
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(MANJARI NEHRU KAUL)
JUDGE

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