

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-48137-2018 (O&M)

Date of Decision:-23.1.2020

Smt. Rekha

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rajesh K. Dadwal, Advocate for the petitioner.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner/complainant Smt. Rekha has approached this Court challenging judgment dated 7.11.2017 (Annexure P-3) passed by learned Additional Sessions Judge, Kurukshetra, whereby a revision petition filed by the petitioner challenging order dated 31.10.2014 (Annexure P-1) passed by learned Sub Divisional Judicial Magistrate, Pehowa, District Kurukshetra, has been dismissed. The petitioner also assails the aforesaid judgment dated 31.10.2014 passed by learned Sub Divisional Judicial Magistrate, Pehowa, District Kurukshetra, whereby the respondents have been discharged.
2. The allegations, in nutshell, are to the effect that marriage of the petitioner was solemnized with respondent No.3-Virender on 4.2.2006 and that sufficient articles of dowry, beyond the capacity of petitioner's parents, were given but despite the same a demand of ₹2 lakhs was raised on the very next day of marriage, which was acceded to by the petitioner's father. It is further

alleged therein that subsequently another amount of ₹5 lakhs was also demanded by the accused.

3. The petitioner led preliminary evidence pursuant to which the respondents were summoned. However, at the stage of considering framing of charges, the respondents were discharged vide order dated 31.10.2014 (Annexure P-1) passed by learned Sub Divisional Judicial Magistrate, Pehowa. The said order was assailed by way of filing a revision petition, which was also dismissed by the learned Additional Sessions Judge, Kurukshetra vide order dated 7.11.2017.
4. The learned Additional Sessions Judge, Kurukshetra, while dismissing the revision petition filed by the petitioner, recorded the following observations in para No.8, which read as follows:

“8. After such hearing and perusal, I may state that the contents of the above stated complaint tell two material things in respect of the case set up by the complainant. The first is demand of Rs.2 lacs by the accused persons after one day of the marriage. Second is demand of Rs.50,00,000/- by them after some time for requirement of the brother of the accused Virender. So far as demand of Rs.5 lacs allegedly made by accused persons is concerned in her deposition before the court, PW1 Rekha has not deposed anything in that respect. Furthermore, in respect of the alleged demand/payment of Rs.2 lacs also, she has feigned ignorance. She categorically deposes that she does not remember as to on what date payment of Rs.2 lac was made; that Rs.2 Lacs were taken from her father; and that she does not know as to on what date money was paid. Her such deposition tells two things. First is that it is contrary to the contents of the complaint, wherein it is alleged that such payment of Rs.2 lacs was made on the next date of the marriage. Secondly, in the complaint, it has been alleged that the said demand was made by the accused persons from the complainant whereas in her such deposition, she has inter-alia stated that Rs.2 lacs were taken from her father. Therefore, the contents of the complaint in question are contrary to her

such deposition. In view thereof, I am of the considered opinion that her deposition does not prove the alleged demand of Rs.2 lacs by the accused persons from her on the next date of marriage in question. So far as deposition of her father is concerned, the complaint does not say that such demand of Rs.2 lacs was made from him. As stated above, the deposition of PW1 Rekha is contrary to contents of the complaint when she says that such demand was made from her father. So far as deposition of her father PW2 Ashok Kumar is concerned since the complaint does not say that such demand was made from him, it is of no use to prove the alleged demand of Rs.2 lacs. Furthermore, may be that PW1 Rekha and her father PW2 Ashok Kumar as well as her neighbourer PW3 Joginder Singh have alleged that a sum of Rs.2 Lacs was paid to the accused persons on the next day of the marriage in question. At the same time, there is not documentary evidence to prove their such contention. I am conscious of the fact that for non preparation of document, it would not have been possible for complainant side to produce any documentary evidence in respect thereof. At the same time, since PW1 Rekha has feigned ignorance about such payment and has rather deposed that payment was made by her father, in the facts and circumstances of the present case, I am of the considered opinion that proof of alleged payment of Rs.2 lacs to the accused persons either by the complainant or by her father was necessary to frame charge sheet in respect of the offences in question against the accused persons. However, it is not so in the present case. Once it is so, the alleged demand/payment of Rs.2 lacs has remained unrebutted/unsubstantiated on record. She has also deposed in her examination that Rs.2 lacs were paid on 6th or 7th. At the same time, her such deposition is also contrary to the contents of the complaint, wherein, she says that marriage in question was performed on 4.2.2006 and she went to parental home on the next day and said amount of Rs.2 lacs was allegedly paid on the said next day.”

5. Similarly, the learned Additional Sessions Judge, Kurukshetra recorded following observations in para No.9:

“9. So far as alleged payment of Rs.5 lacs is concerned, no doubt in complaint in question, it has been alleged that the accused persons made demand of alleged amount for requirement of the brother of the accused

Virender Kumar in abroad. At the same time, when PW1 Rekha entered witness box, she did not depose anything about alleged payment. In the absence of any evidence from her mouth in respect thereof, I am of the considered opinion that the deposition of her father and brother will not prove alleged demand of Rs.5 lacs from her by the accused persons. Accordingly, the deposition of her father and neighbour in respect of the alleged demand of Rs.5 lacs is of no help to prove it.....”

6. Having heard the learned counsel for the petitioner and having perused the impugned judgments, this Court finds that the Trial Court as well as the learned Court of Additional Sessions Judge have appreciated the evidence in correct perspective and there is no infirmity in the findings as recorded by the learned Sub Divisional Judicial Magistrate, Pehowa, District Kurukshetra and as affirmed by the learned Additional Sessions Judge, Kurukshetra. There is no ground for interference with the impugned judgments and the same are hereby upheld. The revision petition is sans merit and is dismissed.

23.1.2020

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No