

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

Crl. Misc. 6375 of 2016 in/and
Crl. Revision No. 766 of 2016 (O&M)
Date of decision: 21.1.2020

Manpreet Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Kirpal Singh, Advocate
for the applicant/petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

JAISHREE THAKUR, J.

Crl. Misc. 6375 of 2016

This is an application that has been filed for condonation of 11 days' delay in filing the revision.

For the reasons stated in the application, which is supported by an affidavit, the delay in filing the revision is condoned.

CM stands disposed of.

Main case

1. This revision petition has been filed under Section 401 of the Code of Criminal Procedure seeking to challenge the judgments dated 20.3.2014 and 10.9.2015 passed by the Sub Divisional Judicial Magistrate, Jagraon as well as Additional Session Judge, Ludhiana respectively, by which the the private respondents herein were acquitted of the charges framed against them under Sections 406 and 498-A IPC.

2. In brief, the facts are that the petitioner—Manpreet Kaur made a written complaint to the police stating that her marriage was solemnized with Captain Kamaljit Singh 2.4.2004 at Ludhiana. It was alleged that approximately 250 grams of gold items were given in the marriage to the mother-in-law, sisters-in-law, father-in-law and brother-in-law. Apart from that a sum of ₹3.5 lakhs was given to the father-in-law, in the presence of her husband and mother-in-law, sister-in-law on 4.4.2004, in lieu of a Zen car. On 22.2.2006, the complainant, along with her husband, flew to Canada. It was alleged that in Canada her husband started torturing her by saying that she is not beautiful and upto his standard. He manhandled her on a number of times and also slapped her. Various other allegations of maltreatment and torturing were levelled by the complainant. On the basis of an inquiry into the complaint so made by the complainant, an FIR was registered against all the accused mentioned in the complaint.

3. After completion of the investigation, challan was presented and charges under Sections 406/49-A were framed against the accused, to which they pleaded not guilty and claimed trial. It is relevant to mention here that during the pendency of the trial, FIR qua Manjit Kaur @ Guddo, Kulwinder Kaur and Kuljit Singh was quashed by this Court and thus only two persons, namely Gurnam Singh and Jasbir Kaur, who are respondents No.2 and 3 in the instant revision, left to face the trial.

4. To prove the guilt of the accused, the prosecution examined the complainant Manpreet Kaur (PW-1), Jagmail Singh (PW-2), HC Rachhpal Singh (PW-3), Gurdev Singh (PW-4), Satnam Singh DSP (D) (PW-5),

Surinder (PW-6), Retired ASI Jaswant Singh (PW-7) and Bara Singh (PW-8).

5. After the close of the prosecution evidence, the accused were examined by the trial court and their statement was recorded under Section 313 of the Code. All the incriminating circumstances appearing against them in the prosecution evidence were put to them in order to enable them to explain the same. They denied all those circumstances and pleaded their false implication.

6. After going through the evidence, so produced and hearing APP for the State and the learned defence counsel for the accused, the learned trial Court held that the complaint filed by the complainant in November 2007 appears to be a counter blast to the divorce petition filed by her husband in September, 2007. There is nothing on the file to suggest that any complaint was ever moved by the complainant against the present accused before her husband initiated divorce proceedings against the complainant and consequently acquitted both the respondents of the charges framed against them under Sections 406 and 498-A IPC, particularly keeping in view that the complainant was not residing with them.

7. Aggrieved against the acquittal, the petitioner filed an appeal before the Additional Session Judge, Ludhiana, who dismissed the same by detailed judgment dated 10.9.2015, leading to the filing of the instant revision.

8. Learned counsel for the petitioner submits that specific allegations of torture, maltreatment and demand of dowry were made in the

FIR against each accused and the same were substantiated by leading oral as

well as documentary evidence, but the courts below did not consider the same in correct perspective, which led to acquittal of the private respondents. It is also submitted that the gold items given to the respondents as per their demand falls within the ambit of Section 498A (b) IPC and therefore, they ought to have been convicted.

9. I have heard learned counsel for both the sides and with their able assistance have carefully perused the record.

10. As per written complaint (Ex. PA) moved by the petitioner/complainant, she had alleged that she is an NRI and was working as Assistant Controller in International Hotel of Caliberty (Alberta) before her marriage. Her allegations that after few days of her marriage on 2.4.2004, her husband and his family members started demanding dowry are belied by her own assertions, for in her cross-examination she admitted that immediately after her marriage they had gone to Dalhousie and also visited Thailand on 17.1.2006. She admitted that for 2-3 years they lived as husband and wife but no child was born out of this wedlock. Even her uncle, namely Gurdev Singh (PW-2) in his cross examination admitted that after 1-1/2 years of marriage, the husband of the complainant went to Canada and admitted that till that time he remained with the petitioner/complainant in India. Further the complainant had alleged that in the marriage of her brother, her husband and family members' behaviour was not good and she was slapped in front of her family members. However, in her cross-examination she admitted that at the time of marriage of her brother photos were taken and a movie thereof was also made. Therefore, if any such occurrence would have taken place in the social/public gathering then it

would not have gone unnoticed and immediately would have been reacted by the relatives of the complainant or by other guest present in the marriage and the matter would have reported the matter to the police, but nothing of this sort was resorted to. This fact itself proves the falsity of the allegations made by the petitioner in his complaint. Another glaring discrepancy is that the complainant had alleged that on the demand of her sister-in-law and mother-in-law she had sent ₹ 3 lakhs, as they were repeatedly demanding the same on telephone, but no such phone call details have been produced or proved on the record, so as to establish the allegations made by the complainant. Thus, as noticed above, the statement of the complainant herself suffers from various glaring infirmities, discrepancies and contradictions, which go a long way to create a dent in the prosecution story. No doubt, while exercising revisional jurisdiction, reappraisal of evidence can be made but that should be for the limited purpose to ascertain whether conclusion arrived at by the fact finding courts below is wholly unreasonable, which is not the case here. Both the courts below, on proper appreciation of the evidence led by the parties, acquitted the private respondents.

11. Consequently, finding no merit in the instant revision, the same is dismissed.

21.1.2020
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No