

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

CRR-901-2016
Decided on : 14.01.2020

Sarika

..... Petitioner

Versus

Dharam Pal & ors.

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sukhdeep Mann, Advocate
for the petitioner.

Manjari Nehru Kaul, J.

Instant revision petition has been preferred against the judgment and order of conviction dated 06/07.05.2014 passed by Addl. CJM, Karnal vide which respondents No.1, 2 and 4 were acquitted under Sections 406, 498-A, 506 IPC and only accused-respondent No.3 Yashpal was convicted under Sections 406, 498-A and 506 IPC, and the judgment dated 10.12.2015 passed by Addl. Sessions Judge, Karnal vide which the appeal filed against the order dated 06/07.05.2014 was dismissed and the conviction of the accused Yashpal was also set aside.

Facts in brief are that the complainant Sarika filed a written complaint against her husband and his family i.e. respondents No.2 to 4 to the effect that a huge amount of Rs.8 lakhs was spent on her marriage by her father and sufficient dowry was given, however, the greed of the respondents remained unsatiated for which she would be subjected to continuous harassment. The accused-husband was posted as Senior Auditor

and allotted a government accommodation at Chandigarh yet she was never taken by him to Chandigarh. Despite her request to the husband to take her along so that she could reside with him, he would tell her that unless and until their demands were fulfilled, she would not be taken along to Chandigarh. It was also alleged that during her pregnancy, she was ill-treated and physically assaulted by her husband and his mother. A panchayat was convened where the accused-respondent instead of admitting to their mistake, made a demand of Maruti Zen Car as a result of which the matter could not be amicably settled. When the complainant along with her brother and maternal uncle went to Chandigarh to get her dowry articles back, the accused refused to return the same. Evern since 2003, the complainant had been compelled to reside in her parental home after being thrown out from her matrimonial home. It was in the above background, the instant complaint was lodged against the respondents. 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 and 506 IPC to which the respondents-accused pleaded not guilty and claimed trial.

Prosecution in support of its case examined as many as seven witnesses including the complainant, who stepped into the witness box as PW-2. The respondents in their statements under Section 313 Cr.PC denied the allegations and pleaded innocence. The accused-respondents also tendered some documents in support of their case.

On appraisal of the evidence led the trial court vide judgment dated 06.05.2014 while convicting the husband Yashpal under Section

498-A, 406 and 506 IPC, acquitted respondents No.2 to 4 i.e. Dharam Pal, Gaurav and Sudesh by holding that there were no allegations of specific entrustment to any of them in the complaint and hence, the prosecution had failed to prove its case beyond reasonable doubt. The Appellate Court vide order dated 10.12.2015 also acquitted the accused-respondent Yashpal from the above-said charges.

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

Findings arrived at by the Appellate Court as well as by the trial court in the opinion of this Court are well reasoned ones and do not therefore, warrant any interference. As far as allegations to attract the offence punishable under Section 506 IPC is concerned, the court below 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 were not supported much less substantiated by any cogent and convincing evidence. There admittedly was no specific allegation of any entrustment of any

article 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 coercion and alleged harassment to meet the unlawful demands of dowry of the respondents-accused. 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. 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.

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

14.01.2020
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:	Yes
Whether reportable :	Yes