

CRR-3475-2018

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

Date of decision: 13.02.2020

CRR-3475-2018 (O&M)

Nirmala Devi Petitioner

Versus

State of Punjab & ors. Respondents

CRR-2841-2018 (O&M)

Nirmala Devi Petitioner

Versus

State of Punjab & anr. Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. G.G.S.Rai, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

**CRM-37065-2018 in CRR-3475-2018 and
CRM-29798-2018 in CRR-2841-2018**

For the reasons mentioned in the application, same is allowed and the delay of 61/46 days in filing the revision petition is condoned.

Main case

This order will dispose of two revision petitions i.e. CRR-3475 and 2841-2018 as both of them have been preferred against the orders dated 17.10.2011 passed by SDJM, Phagwara and dated 04.04.2018 passed by Addl. Sessions Judge, Kapurthala in complaint case No.9 dated 10.03.1989 registered

CRR-3475-2018

under Sections 406, 498-A IPC vide which the accused-respondents were granted acquittal. Brief facts of the case are taken from CRR-3475-2018.

The case of the complainant is that she was married with the brother of respondent No.2-Asha Rani on 06.11.1983 at Phagwara. At the time of her marriage, a huge amount of money was spent by her parents. Her dowry which included gold ornaments and household articles was entrusted to her in-laws family. However, her in-laws were dissatisfied with the dowry for which she would be subjected to harassment and asked to get more. As she was unable to fulfil the demands of her in-laws family, she would be ill-treated. On 25.03.1984, she was pushed down from the first floor of her matrimonial home as a result of which she received injuries for which she was treated at a medical facility at Phagwara and all expenses were borne by her parents. It was also alleged that on the engagement ceremony of respondent No.2-Asha Rani, another demand of Rs.3,000/- was raised by her in-laws, which was acceded to by her parents. Thereafter another demand of Rs.40,000/- was made from the complainant at the time of the marriage of respondent No.2- Asha Rani. Since the petitioner expressed her inability, she was subjected to physical assault and finally thrown out of the matrimonial home on 28.09.1987. All efforts to bring about reconciliation with her in-laws through panchayats proved futile. It was in this background, the complaint in question was lodged against the respondents. The trial Court as well as the Lower Appellate Court on appraisal of the evidence led acquitted the accused-respondent of the charges framed against them.

Learned counsel for the petitioner submitted that Sub Divisional Judicial Magistrate vide judgment dated 17.10.2011 erred in acquitting

CRR-3475-2018

respondent No.2-Asha Rani under Section 498-A IPC and convicting her only under Section 406 IPC whereas accused Sat Pal was acquitted of all the charges framed against him. It was further urged that in the appeal filed by respondent No.2- Asha Rani against her conviction under Section 406 IPC, the Appellate Court gravely erred in acquitting her. It was submitted that the Courts below failed to appreciate that there were allegations of entrustment of gold jewellery and articles to respondent No.2-Asha Rani, which was ignored by the Courts below. Further the Courts also failed to appreciate that she had been physically assaulted by the in-laws family as a result of which she suffered a lot of mental torture.

I have heard learned counsel for the petitioner and gone through the impugned judgments and other evidence available on record.

A perusal of the complaint clearly reveals that nowhere had the complainant ever alleged the entrustment of gold jewellery to respondent-accused Asha Rani. The only allegation, which was levelled in the complaint, against all the accused including respondent-Asha Rani was to the effect that articles mentioned in “Annexure A” were entrusted to the accused. It is only when she stepped into the witness box during her preliminary evidence; she made specific attribution of entrustment of gold jewellery to respondent-accused Asha Rani besides making other material improvements.

I have no reason to differ from the findings recorded by the Courts below that “Annexure A”, which is a list of articles attached with the complaint cannot be considered to be a conclusive proof of alleged entrustment of dowry articles to the accused including respondent-accused Asha Rani, more so, when no receipt much less bills to support the purchase of even a single article

CRR-3475-2018

mentioned in “Annexure A” was placed on record by the complainant. It is indeed very strange that the parents of the complainant who would have been the best witnesses to support her case of entrusting dowry articles especially gold ornaments to the accused including respondent-accused Asha Rani did not even step into the witness box. Further, the deposition of the complainant is at complete variance with her own witnesses. On one hand, the complainant stated that she was not wearing any gold ornaments at the time of her marriage while on the other, her own witness PW-3 Amarjit Singh in his cross-examination after pre-charge evidence deposed that the complainant was wearing her gold jewellery at the time of her marriage. It is very apparent that no cogent and convincing evidence has been led by the complainant in support of her case. There are gaping holes in the case of the complainant, which definitely create a huge dent.

As a sequel to the above, no interference is warranted in the well reasoned orders passed by the Courts below. Accordingly, the present petition stands dismissed.

13.02.2020

sonia

(MANJARI NEHRU KAUL)**JUDGE**

Whether speaking/non-speaking?

Yes

Whether reportable?

Yes