

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 251

CRM-M-19235-2022 (O&M)

Date of decision : 27.05.2022

Dilbagh Singh and another

..... Petitioners

VERSUS

Baljeet Kaur

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Atul Goyal, Advocate, for the petitioners.
 Mr.Aman Dhir, Advocate, for the respondent.

DEEPAK SIBAL, J. (ORAL)

Respondent-Baljeet Kaur filed a complaint before the Additional Chief Judicial Magistrate, Sri Muktsar Sahib (for short, the Trial Court) as per which she was being harassed and tortured by her husband-Gurkirat Singh and his family members for bringing less dowry. She also complained that her husband was having an extra marital affair and that when she confronted him with such fact he got angry and gave her beatings. One of the incidents in her complaint was of 24.12.2017 on which date, according to her, after she was turned out from her matrimonial home and was going on her scooty, she was waylaid by her husband and his family members. After her scooty had came to a complete halt, Jagdeep Kaur and Amandeep Kaur (petitioner No.2) caught hold of her from her arms whereas Randhir Singh son of Makhan Singh caught hold of her legs. Thereafter Dilbagh Singh (petitioner No.1) gave her beatings and her husband-Gurkirat Singh tried to strangulate her. When she raised an alarm, her father and one Jagsir Singh arrived at the spot and on seeing them the complainant's husband and his family members fled from the scene.

In support of her complaint, the complainant led preliminary evidence after consideration of which the Trial Court was of the opinion that the allegations by the complainant with regard to the incident on 24.12.2017 were false as the Trial Court doubted the presence of the complainant's father on the spot of occurrence and was further of the view that in matrimonial disputes there was a tendency by the aggrieved wife to rope in all the members of her husband's family as also because the Trial Court

found that petitioner No.2-Amandeep Kaur (married sister of the complainant's husband) and petitioner No.1-Dilbagh Singh (Amandeep Kaur's husband) were living separately. Resultantly, the Trial Court did not summon the petitioners to face trial.

The respondent filed a revision petition against the order of the Trial Court which was allowed on 11.10.2021 by the Additional Sessions Judge, Sri Muktar Sahib (for short, the Revisional Court). The reasoning given by the Revisional Court to set aside the order of the Trial Court was that the Trial Court had wrongly considered petitioner No.2-Amandeep Kaur to be the married sister of the complainant's husband and petitioner No.1 to be her husband who were living separately from the complainant's matrimonial home. In fact petitioner No.2 was not the sister of the complainant's husband but it was petitioner No.1 who was his brother and that both the petitioners were residing in the complainant's matrimonial home. Resultantly, the Revisional Court directed the petitioners to be summoned to face trial.

The petitioners have preferred the instant petition to challenge therein the aforesaid order of the Revisional Court.

Learned counsel for the parties have been heard.

Through her complaint the complainant sought the petitioners' prosecution for *inter alia* having waylaid her on 24.12.2017 and then, alongwith their co-accused, for giving her beatings.

As per the Trial Court the petitioners were not required to be summoned to face trial as the alleged incident on 24.12.2017 itself was doubtful. To arrive at such a conclusion the Trial Court gave several reasons. Only one of such reasons was that the petitioners were not living in the complainant's matrimonial home as petitioner No.2 was the married sister of the complainant's husband. The relevant extract of the order of the Trial Court reads as under: -

“13. Similarly so far as allegations against other accused as well as incident dated 24.12.2017 are concerned, these are vague in nature. Presence of father of the complainant at the spot at that time is also doubtful as complainant as well as her father failed to explained as to how father of the complainant managed to come at the spot when complainant was allegedly going on her scooty on main road. Even there is no specific attribution to any of the accused by their names qua the alleged incident dated 24.12.2017 but the accused have been mentioned as accused no.1, accused no.3 and so on. Since those allegations were regarding the specific role of each of the accused for allegedly giving

beatings to the complainant, it was necessary for the complainant and her witnesses to specifically name them. Through complainant has stated that she reported the matter to the police but she has not examined any police official to prove that she in fact moved any application to the police. The copy of the application Ex.C1 dated 25.12.2017 does not bear any number or receipt of the police station which means that it is unilateral document and in fact the alleged incident dated 24.12.2017 was never reported to the police and thus said incident appears to be concocted and exaggerated version. Likewise, there is no averment or evidence regarding specific entrustment of any dowry article or Istri Dhan to remaining accused. Moreover accused no.2 is stated to be grandmother of accused no.1 who must be old aged lady and such kind of behavior at this age cannot be expected on her part. Even there is no specific allegations against her. Similarly accused no.6 is stated to be sister of accused no.1 and accused no.5 is her husband which means that sister of accused no.1 is married and accused no.5 and 6 are not the members of the matrimonial house of complainant. This court cannot loose sight of the fact that now a days there is general tendency to implicate all members of the family of the husband in event of matrimonial discord and in this case also it seems that complainant is trying to implicate all the family members and relatives of her husband. As such in view of the aforesaid, this court finds sufficient grounds to proceed against accused Gurkirat Singh (accused no.1), accused Randhir Singh (accused no.3) and accused Jagdip Kaur (accused no.4) only for offence punishable under section 406/498-A and 323 of the IPC whereas complaint against other accused and under other sections is hereby dismissed. Therefore finding sufficient grounds to proceed against accused Gurkirat Sikngh (accused no.1), accused Randhir Singh (accused no.3) and accused Jagdip Kaur (accused no.4), they are ordered to be summoned accordingly for 28.05.2019 whereas complaint against other accused and under other sections is hereby dismissed.”

Through the impugned order the Revisional Court chose to set aside the order of the Trial Court only for the reason that the Trial Court had not rightly considered the petitioners' relationship with the complainant's husband as petitioner No.2 was not the sister of the complainant's husband but it was petitioner No.1 who was his brother. The Revisional Court did not even delve into the other reasons given by the Trial Court for doubting the very incident which allegedly took place on 24.12.2017. Since such incident was the primary cause on the basis whereof the complainant had pointed her finger of accusation towards the petitioners, such an exercise was required to be done. If the incident dated 24.12.2017, as alleged by the complainant, had taken place, then the petitioners' relationship with the complainant's husband would only be one of the facts to be considered for their summoning or otherwise.

In the light of the above discussion, the impugned order dated 11.10.2021, passed by the Revisional Court is set aside and the matter is remitted back to the Revisional Court for a fresh decision, in accordance with law.

27.05.2022
shamsher

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

[DEEPAK SIBAL]
JUDGE