

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRL.REVISION NO.139/2019(O&M)
Date of decision: 10.08.2023.

Ritu

.....Petitioner

Vs.

State of Haryana and another

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Meenakshi Bali, Advocate for
 Mr. GC Shahpuri, Advocate for the petitioner.

Ms. Deepshikha Chouhan, AAG Haryana.

Nidhi Gupta, J.

CRM 1905/2019

Since there is delay of 117 days in refiling the revision petition, aforesaid application has been filed under Section 5 of the Limitation Act, seeking condonation of said delay.

Said delay is attributed to the counsel for the petitioner before the trial Court who failed to provide her grounds of appeal as the same were applied for before the Id. Appellate Court on 29.11.2018 but were supplied by the counsel to the petitioner only on 5.1.2019. Even if this reason behind the delay is accepted still there is unexplained delay of 81 days. Thus, petitioner has failed to show sufficient cause behind this delay, disentitling her for condonation of said delay.

CRR 139/2019

Challenge in the present revision petition is to the judgment dated 13.3.2018 passed by Addl. Sessions Judge, Ambala upholding judgment of ld. Addl. Chief Judicial Magistrate, Ambala dated 16.7.2016 whereby accused/respondent no.2-husband of the petitioner has been acquitted in a case FIR No.457 dated 17.9.2013 under Sections 406/498-A/323/506 IPC.

Ld. Counsel for the petitioner submits that respondent no.2 husband has been wrongly acquitted by the courts below. It is submitted that the petitioner was married to respondent no.2 on 17.11.2010 and they have been living separately since 30.7.2013. No child was born out of their wedlock. In the FIR the petitioner had named respondent no.2-husband, mother-in-law of the petitioner, and her brother-in-law, however, challan was presented only against respondent no.2.

Ld. Counsel submits that ld. Courts below have totally failed to appreciate the evidence on record. It is submitted that the petitioner had placed on record sufficient cogent evidence to show that the respondent no.2 and his family made consistent demand of dowry from the petitioner and her family, and she was beaten mercilessly on several occasions. However, the said evidence has not been considered in the right perspective.

Ld. Counsel further submits that the Ld. ACJM, Ambala acquitted respondent no.2 primarily on the ground of jurisdiction, however, failed to appreciate that engagement ceremony between the petitioner and respondent no.2 was performed at Ambala.

No other argument has been raised.

Heard ld. Counsel.

Ld. ACJM in paras 13 to 15 of the impugned judgment dated 16.7.2016 has discussed in detail and recorded categoric findings in respect of each of the allegations levelled by the petitioner against respondent no.2 and his family. The findings so recorded by the learned trial court are reproduced below:-

“13. The complainant has filed the present complaint at Ambala primarily on the assertion that engagement ceremony between the complainant and accused no.1 was performed at Ambala. However, aforesaid version of the complainant is belied from the letters Ex. D1 and Ex. D7 written by her to the S.P and D.C., Yamunanagar wherein she has clearly mentioned that her engagement was held at Agra. The aforesaid fact is further corroborated from photographs Ex.D2 to Ex.D6 and the complainant in her cross-examination has admitted that said photographs pertains to the engagement ceremony held at Agra. Accused has also placed on record Hotel bills Ex. D8 and Ex. D9 alleging that the engagement ceremony was performed in the said hotel on the said date. The complainant neither in her evidence nor in any document could prove that engagement was held at Ambala as alleged by her. Though the brother of the complainant Sandeep Kumar while appearing as PWS has submitted that they had given 2 lac. to her Bua for performance of engagement ceremony at Ambala but Buz of complainant while appearing as PW2 has stated in clear terms that she did not attend the engagement ceremony of the complainant and she does not know where the engagement was held. Even the complainant has admitted that she cannot tell the place where the engagement was held and neither PW1 nor PW2 and not even PW5 could tell the place where the engagement was held nor the complainant has produced any receipt, bill etc. to prove that engagement was held at Ambala. All the aforesaid witnesses in their respective

testimonies have admitted that accused are resident of Agra, the marriage between the complainant and accused no.1 was a love marriage and was performed against the wishes of family of complainant at Agra. After marriage the complainant resided at Agra and the complainant is otherwise a resident of Yamunanagar. In such circumstances there is nothing on the file to prove that any cause of action for filing the present complaint accrued to the complainant at Ambala.

14. Furthermore, perusal of the complaint of complainant would reveal that she has stated that accused persons immediately after marriage started harassing her for dowry. On 30.12.2010 her mother gave a sum of t2 lac. to the accused persons. Again on 22.06.2011 another sum of 2 lac was paid by her mother. Thereafter again on 15.09.2011 another amount of 32 lac. was paid. A sum of \$50,000/- was paid in the month of February, 2012 and thereafter, 1 lac. was paid on 05.01.2013. However, the complainant has not examined her mother who was a material witness to prove the aforesaid payments. Similarly, neither there is any evidence qua withdrawal of the aforesaid amount from any account nor the complainant has examined any of her relative from whom such amounts were borrowed. In fact the complainant while appearing as PW1 has given a contradictory version qua the said payments. The brother of the complainant while appearing as PW2 has given a contradictory version over the payment whereas the aunt of complainant while appearing as PW2 has stated in clear terms that neither any demand of dowry was made in her presence, nor any payment was made in her presence. Except the bald version of the complainant and her brother, there is no other evidence on the file to prove the payment of the amount mentioned in the complaint to the accused persons on demand of dowry.

15. The complainant also alleges that she was mercilessly beaten by the accused persons and was shunted

out of the matrimonial home but except the bald statement of the complainant, there is no other corroborative evidence to that effect. The complainant has neither moved any complaint before the police nor got herself medically examined at any occasion. If the complainant had been tortured by the accused persons since 2010 there was no reason or occasion to sit quite for three years without moving to the competent authority for redressal of the grievances. In fact from the perusal of the testimony of complainant and letters Ex.D1 and Ex.D7 it would reveal that accused no.1 and complainant were into a love affair and thus the engagement and marriage was solemnized with the accused against the wishes of family members of the complainant. The complainant started residing at Agra but since the complainant and accused no.1 could not carry out well, thus the complainant moved out of the matrimonial home and subsequently at the instance and advise of her family members had filed the present complaint. In the present case except for the bald testimony of complainant, there is no evidence on the file qua the demand of dowry or giving of dowry. There is nothing on the file to prove physical injury on the person of complainant and there is nothing on the file to prove any cause of action accrued to complainant for filing the present complaint at Ambala.”

Ld. Counsel for the petitioner is unable to controvert the above said findings or show anything to the contrary.

In view of the above, no ground for exercising revisional jurisdiction of this Court is made out.

Dismissed.

10.08.2023.
Joshi

(Nidhi Gupta)
Judge