

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

CRR-324-2019(O&M)
Date of decision: 13.09.2023

Balwinder Kaur

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Nitin Rampal, Advocate for the petitioner.

Nidhi Gupta,J.

CRM-4536-2019

Prayer in the application is for condonation of delay of 190 days in filing the appeal.

The only reason stated by the applicant/petitioner in the application, is that the petitioner could not engage a counsel as she, being a poor lady, could not arrange money in time.

No ground is made out to condone the delay of 190 days in filing the appeal.

Application stands dismissed.

CRR-324-2019

1. Present revision petition has been filed by the petitioner seeking setting aside of order dated 11.04.2018 passed by Id. Additional Sessions Judge, Ferozepur, reversing the judgment dated 30.03.2017 passed

by the Ld. Judicial Magistrate Ist Class, Guruharsahai whereby the respondent No.2 herein had been convicted in complaint made by the petitioner under Sections 406, 498-A, 494, 420 and 120-B IPC registered at Police Station Guruharsahai.

2. Learned counsel for the petitioner submits that the marriage of the petitioner/complainant was solemnized with respondent No.2 in the year 2008. It is submitted that though the parents of the petitioner had given a marriage much beyond their needs, yet the respondent No.2 and his family constantly taunted the petitioner for bringing less dowry. It is stated that the respondent No.2 and his family harassed the petitioner to bring motorcycle, and also demanded Rs.50,000/- cash from her parents. As the parents of the petitioner were unable to fulfill the exorbitant demands of the respondent No.2 and his family, and they were not in a position to give motorcycle or Rs.50,000/- cash as they are already spent huge amount in her marriage, the accused persons (respondent No.2 and his family) frequently gave beatings to the petitioner and also taunted her consistently. It is submitted that accordingly the petitioner was subjected to immense mental and physical torture and harassment. When the petitioner was pregnant she was turned out from the matrimonial house. It is submitted that thereafter, respondent No.2 has even solemnized second marriage. Therefore, it is in this background that the petitioner was left with no alternative but to file the present complaint under Sections 406, 498-A, 494, 420 and 120-B IPC.

3. Learned counsel further contends that though the petitioner had led comprehensive and cogent evidence against respondent No.2, and all the witnesses had supported the case of the petitioner, on basis of which the

learned trial Court had correctly convicted the respondent No.2, however, the said facts and evidence on record have been wrongly ignored/misconstrued by the learned First Appellate Court/Addl. Sessions Judge, Ferozepur while passing the impugned order dated 11.04.2018, whereby the respondent No.2 has been acquitted. It is accordingly, prayed that the impugned judgment dated 11.04.2018 be set aside and the order passed by the Id. JMIC, Guruharsahai dated 30.03.2017 be upheld.

4. I have heard learned counsel for the petitioner.

5. Perusal of the record reveals that the learned trial Court has convicted the respondent No.2 solely on the basis of the bald statements of the petitioner/complainant to the effect that the respondent No.2 had taunted and harassed the petitioner, and had called her a poor person. The record reveals that the petitioner has failed to lead evidence to substantiate and support her allegations. On the contrary, Id. Addl. Sessions Judge, Ferozepur, upon perusal and considering all the records of the case and the evidence in minute detail, has returned the following findings:-

“15. Balwinder Kaur CW-1 in her entire testimony has not disclosed any specific instance of cruelty and in her cross-examination she stated that she remained with Harbans Singh accused only for 1-1/2 year and Harbans Singh had thrown her out of his house and she had not leave out of her own will. She further in her cross-examination categorically stated that she was not willing to live with Harbans Singh. She stated that Harbans Singh told her that he did not want to keep her in his house nor the child was his and besides this he had never said anything to her. She has also stated that a panchayati divorce had taken place between them, upon which she had appended her thumb impression and her father Sona Singh had also appended his signatures. She also

identified the signatures of Member Panchyat Ganda Singh, Mohinder Singh, Surinder Singh and Amar singh. She admitted that photographs shown to her pertained to the return of the dowry articles and all her dowry articles were returned to her except the photographs. She also admitted that she could not recall any date, time and year when she was beaten by the accused. Sona Singh father of the complainant Balwinder Kaur while appearing as CW-2 has endorsed the version of the complainant but he too in his testimony did not disclose any particular instance of cruelty rather he stated that his daughter had left her matrimonial home on her own. He also admitted that a panchyati divorce had taken place and he and his daughter had appended their thumb impression on the same. Testimony of Ganda Singh CW-3 also does not disclose any particular instance of cruelty. He has also admitted regarding the panchyati divorce. The other witness CW-4 Balwinder Singh pertained to the second marriage of Harbans Singh. However, the learned trial court had acquitted the accused for the offence under Section 494 IPC.

16 The court has relied upon the sole version of the complainant that the accused referred to her as belonging to a poor family, but in the considered opinion of this court this would not in itself amount to harassment or cruelty since the complainant herself states that she belongs to a poor family. The complainant and her witnesses have admitted that there was an amicable settlement and dowry articles were returned. The complainant Balwinder Kaur has stated that she was thrown out of her matrimonial home whereas to the contrary her father Sona Singh states that she left her matrimonial home on her own which is a material discrepancy and speaks volume of the conduct of the complainant herself. The complainant admitted that she left her matrimonial home 1-1/2 years of the marriage, although, she denied that her dowry articles were returned to her but when confronted with the photographs she admitted that the dowry articles were returned. Thus, conclusively, it can be said that the

complainant had failed to prove through cogent and convincing evidence that the accused Harbans Singh used to treat her with cruelty and general and vague allegations regarding demand of dowry cannot form the basis of conviction of the accused under Section 498-A IPC. The complainant was to prove beyond reasonable doubt the alleged acts of cruelty but she has failed to do so.....”

6. From a perusal of the above findings, it becomes clear that: the petitioner stayed in the matrimonial home for only 1-1/2 years; though the petitioner has stated that she was thrown out of the matrimonial home, yet her father as CW2 has admitted that it was the petitioner who had deserted her matrimonial home; petitioner has categorically refused to live with the respondent No.2; petitioner has admitted that pursuant to an amicable settlement, there was a Panchayati divorce between the petitioner and respondent No.2; petitioner has admitted that all dowry articles were returned to her; the petitioner has alleged that the respondent No.2 beat her, yet, petitioner has failed to cite any specific instance of cruelty/beating; nor has she provided any details of the date, time or place as to where the respondent had beaten her; in fact, none of the witnesses deposing on behalf of the petitioner have cited any particular instance of beating/cruelty inflicted upon the petitioner by the respondent No.2; merely referring to the petitioner as a poor person by respondent No.2 does not constitute cruelty as the petitioner herself has called herself a poor person; admittedly the learned trial court has acquitted the respondent of the charge under Section 494 IPC.

7. Learned counsel for the petitioner is unable to dispute the above said findings of the learned Addl. Sessions Judge, Ferozepur, in any

manner whatsoever. Nothing has been produced before this Court to controvert or show the above said findings to be incorrect.

- 8. Accordingly, I find no merit in the present revision petition.
- 9. **Dismissed** on merits, as well as on grounds of delay.
- 10. Pending applications, if any, stand disposed of.

13.09.2023
ps-I

(Nidhi Gupta)
Judge

Whether speaking/reasoned	Yes
Whether reportable	Yes/No