

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

222

CRM-A-1581-MA-2014

Date of Decision: 21.08.2023

Smt. Sohan Devi

.... Applicant

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Sahil Chaudhary, Advocate for
Mr. Shiv Kumar, Advocate for the applicant.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Devender Kumar, Advocate
for respondents No. 2 and 3.

NIDHI GUPTA, J.

1. The applicant has preferred the instant criminal miscellaneous application under Section 378(4) Cr.P.C., seeking leave to file appeal against the judgment dated 13.08.2012, passed by the learned Sub Divisional Judicial Magistrate, Hodal, whereby respondents No. 2 and 3 herein, have been acquitted for the alleged offences under Sections 494, 323 and 506 read with Section 34 IPC in a complaint case bearing Case No. 430/1 dated 25.04.2006/19.02.2011, titled as 'Smt. Sohan Devi vs. Ganga Lal and another'.

2. Learned counsel for the applicant, *inter alia*, submitted that the applicant was married to respondent No. 2-Ganga Lal, around 40 years back in the year 1967. Though, they both resided as husband and wife, but no children were born out of this wedlock. The applicant was thrown out of the matrimonial home whereupon she filed a petition for

maintenance which was allowed by fixing maintenance @ Rs.200/- per month. It is submitted that respondent No. 2 without getting legal divorce from the applicant has solemnized marriage with respondent No. 3 herein and they are residing together as husband and wife. Learned counsel submits that the applicant has produced documentary evidence in support of this contention before the learned trial Court, however, the same has been ignored by the Court below. The applicant has produced Electoral Roll, Mark A in which the name of respondent No. 2 has been shown as husband of respondent No. 3; Mark-D Ration Card in which the name of respondent No. 3 has been written as wife of respondent No. 2. Thus, learned counsel for the applicant submits that in view of such conclusive documentary evidence, learned trial Court was in error in acquitting respondents No. 2 and 3.

3. Learned counsel for the applicant straightway takes the attention of this Court to the findings recorded by the learned trial Court in para-Nos. 9 and 10 of the impugned judgment, wherein it is recorded as follows:

“9. After considering the evidence on record, it comes up that neither in the complaint filed nor in the evidence led, complainant has been able to depose about the date or even year of the alleged marriage of the accused. There is no allegation or deposition as to how the second marriage was solemnized. There is no evidence even of a witness who has seen the accused leaving as husband and wife or to have admitted their status as husband and wife before them on any social occasion. Complainant herself admits in the cross-examination that even since 1981 she has not gone to the village where accused persons reside. She admits that she was paid Rs.3,00,000/- as one time maintenance.

10. All that complainant has succeeded to bring before the Court as evidence is some documents of public record. Mark A is the Electoral Roll in which name of Ganga Lal has been shown as husband of Maya. PW1 a summoned witness has proved this but when he proved this document and mark was

put up he admitted that he had not brought the original record. This is not a certified copy of the voter list. He was also unable to tell on which basis this entry has been made. He specifically admits that he did not prepare this voter list. Thus, these documents cannot be considered to be so genuine as to give a conclusive finding that it has been prepared at the instance of the accused under some valid document of marriage so to be a categoric admission. CW3 is the summoned witness of Food & Supply Department who has proved Mark D Ration card application form in which alleged name of Maya has been mentioned as wife. This again is not the original record, and the witness admits in cross-examination that when the relationship is entered in their records they do not ask for any document in support the relationship claimed. He also admits that this document was not prepared in his presence. Thus, this document also cannot be considered to be conclusive evidence of solemnization of marriage”.

4. Learned counsel for the applicant is unable to dispute or controvert the abovesaid findings as recorded by the trial Court. Even nothing has been produced before this Court to show that the said findings are incorrect.

5. In view of the discussion made above, no ground is made out to interfere in the impugned judgment. The instant criminal miscellaneous application seeking leave to file appeal, being completely devoid of any merit, is **dismissed**.

21.08.2023

rishu

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No