

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-87-MA/2017

Date of decision: 09.08.2023.

Manju Bajaj

.....Appellant

Vs.

State of Punjab and another

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Preeti Sharma, Advocate for the appellant.
 Mr. Vijay Rana, Advocate for respondent no.2.
 Mr. Pankaj Khullar, AAG Punjab

Nidhi Gupta, J.

Present appeal has been filed by the wife against the judgment of acquittal dated 23.12.2014, passed by the learned Judicial Magistrate, 1st Class, Abohar whereby the husband of the appellant/ respondent No.2 herein, was acquitted under section 406 IPC (though convicted under section 498-A IPC), and acquitting the mother-in-law and sister-in-law of the present appellant under sections 406/498-A IPC; and the judgement dated 19.09.2016 whereby Ld. Additional Sessions Judge, Fazilka, has set aside the conviction of respondent no. 2/ husband under Section 498-A of the Indian Penal Code, and dismissed the revision petition filed by the appellant against the order dated 23.12.2014 whereby the mother-in-law and sister-in-law of the appellant were acquitted.

Learned counsel for the appellant-wife submits that appellant

was married to respondent no.2 herein on 18.7.2008. No child was born out

of their wedlock. As the respondent and his family tortured the appellant, she was constrained to file complaint no. 5427 dated 18.11.2009 on the basis of which present FIR no. 113 dated 7.4.2010 under Section 406/498-A IPC, PS City II, Abohar was registered. Ld. Counsel for the appellant submits that vide judgment dated 23.12.2014, respondent no.2 has been convicted under section 498-A IPC and sentenced by the ld. Trial Court to undergo RI for a period of 6 months and to pay a fine of Rs.2000/- and in default of payment of fine to undergo RI for 15 days. It is submitted that however, the ld. Trial Court acquitted the mother-in-law and sister-in-law of the appellant. It is submitted that the ld. Addl. Sessions Judge was in error in setting aside the judgment dated 23.12.2014 whereby respondent no.2 was convicted under Section 498-A IPC as there is ample evidence on record to uphold conviction of respondent no.2. It is further submitted that mother-in-law and sister-in-law of the appellant also ought to have been convicted.

No other argument has been raised on behalf of the appellant.

Heard ld. Counsel for the appellant, and also perused the record.

The relevant findings of the ld. Lower Appellate Court in respect of all allegations levelled by the appellant, are contained in paras 27 and 31 of its judgment dated 19.9.2016, and are reproduced below:-

"27. In order to attract the provisions of Section 406 Indian Penal Code, the prosecution is required to prove the entrustment of specific articles by or on behalf of the complainant to the accused persons, which articles are meant to be used by the complainant. In case, the entire application Ex.PA is perused minutely, it shall be clear that there is absolutely no reference to any article having been entrusted to any of the accused either before or after the marriage or at the time of the marriage. The said application absolutely finds

no reference of any such article, which may have been entrusted to the accused persons by or on behalf of the complainant. So much so, the said application nowhere reveals that complainant ever raised any demand of any alleged article from the accused persons. Still further after the moving of the application Ex.PA by the complainant, the statement of complainant was also recorded during the investigation. The said statement is proved on the file as Ex.PB. A perusal of the statement of Ex.PB shall also reveal that there is no reference to any such article having been entrusted by or on behalf of the complainant to the accused persons or the demand raised by the complainant from the accused and the refusal on the part of the accused to return the same.

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"31.....So far as the beatings allegedly given to the complainant are concerned, the allegations leveled are vague, because the complainant has not leveled any specific allegations against any of the accused. Further the complainant has simply alleged that accused persons demanded an amount of Rs. Four lacs as dowry after the marriage, but no date, month or year thereof has been given by the complainant. The vague allegations are not sufficient to prove a criminal case against the accused person. As per the allegations leveled by the complainant, the alleged demand of Rs. Four lacs in cash was raised just after 10 days of marriage. The marriage was solemnized on 18.07.2008, but strangely enough the complainant has leveled this allegation against the accused after a gap of more than one year by filing the application Ex.PA. In case the alleged demand was raised by the accused persons, the complainant might have disclosed this fact to her relatives".

Ld. Counsel for the appellant is unable to dispute the aforesaid facts/findings recorded by the learned Lower Appellate Court, or show anything to this Court to controvert the above said findings.

In view of the above, finding no merit in this appeal the same is hereby **dismissed**.

09.08.2023.
Joshi

(Nidhi Gupta)
Judge