

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRR-4591-2016(O&M)

Date of decision: 16.08.2023

Munesh Kumari

...Petitioner(s)

Vs.

Krishan Kumar & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Mehak Sawhney, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present revision petition has been filed against the judgment dated 01.03.2014 passed by the learned Judicial Magistrate, 1st Class, Kosli, as well as the judgment dated 12.10.2016 passed by the learned Additional Sessions Judge, Rewari, whereby the respondent-accused have been acquitted for the commission of offences punishable under Sections 498-A, 406, 323 and 506 read with Section 34 IPC, and appeal against the same has also been dismissed respectively.

2. Learned counsel for the petitioner-wife submits that the petitioner was married to respondent No.1 on 21.06.2010. The petitioner has been residing separately from the respondent since 15.10.2011. No child was born out of this wedlock. Petitioner filed the FIR on 17.10.2011. It is submitted that the learned Courts below have returned concurrent findings against the petitioner, however, have failed to appreciate the comprehensive evidence led by the petitioner in

support of her allegations. It is stated that the petitioner had proven on record that the respondents No.1 to 4 herein had made demand of Rs.5 lakh as also demanded two LED TV for drawing room, and respondent No.4 had demanded a Nokia phone. It is submitted that the learned Courts below also fell in error in failing to appreciate the fact that the petitioner/PW1 in her deposition stated that she was given beating on different occasions for demand of dowry by the respondents. On the occasion of Holi, when her brother visited, he found that his sister was mal-treated by the respondents. On objection, he was threatened of dire consequences. On 10.10.2011, the petitioner was beaten by Rishipal, Urmila and Krishan Kumar. Her finger was crushed between the doors and gave fist and kick blows and threatened her of dire consequences. When her brother again visited on 15.10.2011 on the occasion of Diwali, he along with the petitioner/complainant was shunted out from the house. Next day on 16.10.2011, she was taken for medical to hospital, where her MLR No.RN/253/11 was prepared. Such type of cruelty with physical assault including dowry demand is ignored by the learned Courts below. Though her father was a witness to the case but unfortunately, he expired during trial. The injuries sustained by her are corroborated by MLR No.RN/253/11. No independent witness was necessary when such corroboration was fulfilled by documentary evidence.

3. No other argument is raised on behalf of the petitioner.

4. I have heard learned counsel for the petitioner as also perused the lower Court record with her able assistance.

5. Relevant Findings of the learned lower Appellate Court are contained in Para 15 of the impugned judgment dated 12.10.2016, and are reproduced hereinbelow:-

“...Since, in the instant case, the complainant PW1 Munesh has claimed that after her marriage with accused No.1 Krishan on dated 26.1.2010, till she moved complaint dated 17.10.2011 to S.P., Rewari, she was subjected to dowry demand and physical and mental harassment at the hands of her husband Krishna, her in-laws Rishipal and Urmila and the mediator in the marriage, Chanderpal, onus was upon her to prove with specific details of day, time place, month of demand of dowry raised, of beatings given but the complainant has miserably failed to establish these facts. The claim of the claimant that the accused wanted the complainant's father to pay for the second-hand car purchased by the accused just prior to her marriage, looks to be improbable because if the accused wanted complainant's family to pay for the vehicle purchased, they could have had purchased a new vehicle with an expectation to get amount back in the dowry. Complainant's claim of having paid amount in cash, has no support from any evidence as from where this amount was arranged is not explained by the complainant, nor, there is evidence that Rs.50,000/- deposited in the bank was ever withdrawn by accused Krishan as part payment of his dowry demand. Further, there is no evidence at all which could show that the bills so placed on record were issued by which firm and for what purposes. Even, the firm which issued the bills did not depute any of its representatives

to prove these bills, nor, the complainant led any cogent evidence showing transportation of such articles, particularly the bigger ones from Jaipur to Matrimonial home of the complainant. The complainant has also not been able to explain as to what articles were entrusted to which accused and when on her demand to return, they did not return the same but misappropriated. Reliance of the complainant on MRL Ex.PW4/A, to prove that she had suffered these injuries because of the beatings given by accused, is legally not approve able because if the complainant was given beatings on 10.10.2011 as per the history given to doctor at the hands of accused, she was at liberty to get her medical done immediately thereafter and such quick action is more expected of the complainant, who is very well educated. It is not the claim of the complainant that she was not permitted to move out of her house by accused, nor, she has been able to explain as to why instead of getting the medical done, she approached the police first. The claim of the complainant that her finger was crushed between the door of house by accused as such not believable because if the accused wanted to crush, they would have had crushed her full hand and not just one little finger. Rather, such kind of injury could be suffered accidentally, as possibly the case here as well. Thus, claim of the claimant that the injury shown in MLR Ex.PW4/A are result of the beatings given is not correct.

Further, once there has been specific stand of accused that he was staying separately from his parents and has also relied upon the publication given by his parents in the newspaper disowning him prior to filing of the present complaint and the accused also have proof of his stay at Gurgaon in the form of addresses given in registration

certificate of the vehicle Ex.D7 and Ex.D8, it was for the prosecution to have proved that the complainant had stayed with her in-laws in their home till she left the same but besides mere claim that the accused Krishan had been staying with his parents, prosecution did not lead any cogent evidence to prove that the complainant had stayed with her in-laws against whom, she has levelled only vague and general allegations that they demanded dowry or retained her articles without explaining as to when, where such demands were raised and what kind of ornaments with their nature and design were kept by them which belonged to her. Hence, Rishipal and Urmila accused deserves benefit of doubt.

*As far as accused Chanderpal is concerned, admittedly, he is not related to accused Krishan by blood, marriage or adoption, so, his conviction under Section 498A IPC cannot ordered in view of the law laid down in **Vijeta Gajra Vs. State of NCT of Delhi 2010(2)CCJ 162 (SC)**. Otherwise also, admittedly Chanderpal was mediator in the marriage and there appears no probability that he would have had anything to gain through demand of dowry. Hence, his impleadment as an accused in this case shows that the complainant did not leave anyone connected with the accused her husband, from her allegations under Section 406 and 498-A IPC. Such tendency of a wife leads to only one conclusion that she has misused the process of law just to settle her scores with her husband with whom she has marital discord...”*

6. Concurrent findings of the learned trial Court are also relevant and are contained in Para 10 of the impugned order dated 01.03.2014, which are reproduced hereinbelow:-

“10. In the light of evidence led by the prosecution as well as the arguments of both sides, my attention is drawn to some points like –

- i) there is no independent corroboration to the prosecution case. Very strangely, her brother was not made witness, he would have been an important witness considering that her father had died during the trial of this case.*
- ii) No other person from the society was joined in the investigation. The case was registered on the directions of SP, Rewari then certainly it was highlighted that the accused were harassing her so there would have been some other witnesses to corroborate it.*
- iii) from MLR of the complainant, it comes up that her little finger was crushed by the accused by sandwiching between the doors of the house. This version seems doubtful as even a man of reasonable prudence would believe the fact that all the accused forced the complainant to put her finger between the doors and thereafter they closed the doors.*
- iv) no specific allegations have been levelled against the accused mentioning the dates. Merely claiming that the accused persons asked for money for the car they had purchased before marriage is not substantiated by the prosecution.*
- v) no evidence has been brought on record to prove that the accused had withdrawn the money from Heli Mandi branch. Vii) the bills and receipts of the dowry articles were not handed over to Police during investigation is very strange and why the complainant kept those bills with her remains unexplained.*

- viii) *from the bills, it comes up that all dowry articles were purchased from Jaipur cannot be believed because how the complainant was purchasing all the articles on her own and why she purchased even the small things from Jaipur, such a far place.*
- ix) *there is no satisfactory explanation by prosecution regarding the source of the money, Rs.15 lacs spent on the marriage.*
- x) *it comes up from the documents tendered in the defence that the main accused Krishan was living in Gurgaon and when this factum is shown in the light of the note of the newspaper as per which this accused is disowned by his parents prior to date of filing of this case, it can be observed that the accused was living away from the other accused."*

7. Learned counsel for the petitioner is unable to show anything from the voluminous lower Court record that can disprove the above said findings.

8. In view of the above said facts and circumstances which are not denied by learned counsel for the petitioner, I find no ground is made out to interfere in the impugned order. Present petition accordingly stands **dismissed**.

9. Pending application(s) if any also stand(s) disposed of.

16.08.2023

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No