

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
224 **CRR-1835-2017 (O&M)**
Date of decision: 25.09.2023

Rekha Kumari

...Appellant(s)

Vs.

State of Haryana and Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Yugank Goyal, Advocate
for the appellant.

Ms. Deep Shikha Chauhan, AAG Haryana.

NIDHI GUPTA, J.

Present revision is filed against judgment dated 17.02.2014 passed by learned Judicial Magistrate, 1st Class, Kosli in case titled as "State Vs. Bharat Bhushan & Others" whereby accused/respondents No.2 to 5 have been acquitted in case FIR No.16 dated 04.02.2010 under Sections 498-A, 406 and 34 IPC registered at Police Station Kosli; and judgment dated 06.08.2016 passed by learned Additional Sessions Judge, Rewari in case titled as 'State of Haryana Vs. Bharat Bhushan & Others' upholding the above said judgment passed by learned Judicial Magistrate, 1st Class, Kosli.

2. Learned counsel for the petitioner inter alia submits that the petitioner was married to respondent No.5 herein on 11.07.2008. They have been living separately since 04.02.2010. No child was born out of this wedlock. The petitioner had registered the present FIR against respondent No.2 (father-in-law), respondent No.3 (mother-in-law), respondent No.4 (brother-in-law), and respondent No.5 (husband). Vide the impugned

orders the learned Courts below have returned concurrent findings thereby acquitting the accused/private respondents herein. Learned counsel submits that the learned Courts below are in patent error in acquitting the private respondents herein as the petitioner had made serious and specific allegations against all of the accused. It is submitted that in support of her allegations, the petitioner had also led cogent and comprehensive oral as well as documentary evidence which has not been appreciated by the learned Courts below. In this regard, learned counsel specifically refers to statements of petitioner/PW2, father of the petitioner (Satyanarain)/PW3 and Sanjay Kumar (independent witness)/PW4, who had all said in one voice that the accused/respondents No.2 to 5 had demanded Rs.2 lakh in cash at the time of marriage and when the said demand was not met, they had abused and tortured the petitioner for dowry. Said witnesses had even categorically stated that the accused were entrusted with Rs.7 lakh in cash for purchasing dowry articles. It is submitted that various Panchayats were convened, however, accused/respondents No.2 to 5 did not mend their ways.

3. No other argument is made on behalf of the petitioner.
4. I have heard learned counsel for the petitioner.
5. Perusal of record of the case shows that after careful consideration and appreciation of the documentary and oral evidence on record, as also the pleadings and submissions made by the parties, vide impugned judgment dated 17.02.2014, learned trial Court has held as follows:-

“10.....But in this case the complainant herself admitted in her cross examination that the dowry articles did not belong to her. Her admission on this factum rests the allegations of misappropriation. Similarly for invoking offence under section 498A IPC it must be established that the cruelty of harassment to wife was to force her to cause bodily injury to herself or to commit suicide or the harassment was to compel her to fulfil illegal demand for dowry. However, it is not every type of harassment or cruelty that attracts this section. In any event the wilful act or conduct ought to be the proximate cause in order to bring home the charge under Section 498A of IPC. In this case the most important witnesses, the complainant and her family members have deposed about the demand of Rs.2 lacs by the accused person like a parrot’s dictation without any independent corroboration. They claim that the Panchayat was convened three times but none of the members of the Panchayat were examined. Allegations and counter allegations of extra marital affairs, during the course of arguments, pushed the nucleus of the dowry demand to periphery. It is pertinent to mention here that o (sic) medical proof is tendered by the complainant in regard to physical assault by the accused. The evidence of Sanjay Yadav is based on hearsay and his admission that both brothers of the complainant were teaching in his school give a colour of interested witness...”

6. Similarly learned lower Appellate Court in its judgment dated 06.08.2016 has held as follows:-

“17. The allegations made by the complainant to the effect that the accused demanded Rs. two lacs as dowry are not substantiated from the statements made by the prosecution witnesses. Rather all the prosecution witnesses have given different version of the alleged demand of dowry and cruelty meted out to the complainant in connection with dowry. There

is no satisfactory explanation by the prosecution about the amount of Rs. seven lacs alleged to have been given by the father of the complainant to the accused prior to the marriage. The complainant could tell nothing about the same whereas PW5 Dinesh Kumar could not tell the details of the funds arranged for the marriage. PW4 Sanjay Kumar also could not be termed as an independent witness. Rather he seems to be an interested witness as observed by the learned trial court. He admitted that both the brothers of the complainant used to teach in his college. He also stated that he was told by the brother of the complainant that their sister used to be harassed by her in-laws. The evidence of this witness could only be termed as a hear-say evidence. There is also nothing on record to suggest that any beatings were ever given to the complainant by the accused. There is nothing on record to suggest that the complainant ever got herself medically examined for having received any such injury in the beatings alleged to have been given to her by the accused. The act and conduct of the complainant in going alongwith with her husband to Bangalore after lodging of the complaint itself shows that there was no demand of dowry.

18. The allegations of physical assault are also not made out as there is no medical report on record to that effect. As already observed, it is not every type of harassment or cruelty that may attract section 498-A of Indian Penal Code..."

7. Learned counsel for the petitioner is unable to present anything before this Court to controvert or dispute the above said concurrent findings in any manner. Even now, except for the bald statements alleging demands for dowry attributed to the accused named above, nothing has been shown to this Court to substantiate the allegation that the petitioner's family had spent about Rs.10 lakh on her marriage, or

to prove that the accused had made a demand for Rs.2 lakhs as dowry, or that Rs.7 lakhs were given to the accused prior to the marriage, to buy dowry articles. Moreover, the complainant herself has admitted in her cross-examination that the dowry articles did not belong to her. Therefore, there is nothing whatsoever on record to prove the allegations of dowry demand or payment thereof. On a direct Court query as to whether any bills were produced by the petitioner party before the learned Courts below, learned counsel for the petitioner submits that the petitioner was married in the year 2008 and keeping in view the patriarchal nature of our society at that time, all decisions were made by the father of the petitioner and therefore, petitioner has no knowledge regarding any bills.

8. In view of above discussion, I find no ground is made out to interfere in both the impugned judgments. Present appeal accordingly stands **dismissed**.

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

25.09.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No