

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

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**CRR-3265-2018 (O&M)
Date of Decision: 13.09.2023**

Sheenu Bharti

...Petitioner

Vs.

Harjit Singh @ Harjit Kumar
and others

...Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. M.S. Dhami, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

CRM 34553 of 2018

The applicant/petitioner has moved the present application with a prayer to condone the delay of 10 days in filing the present revision petition.

For the reasons mentioned in the application, the same is allowed and the delay of 10 days in filing the present revision petition is ordered to be condoned.

CRR-3265-2018

The applicant has challenged the impugned judgment dated 14.05.2018 passed by the Court of Sessions Judge, SBS Nagar and the judgement dated 06.07.2017 passed by the Court of Judicial

Magistrate 1st Class, SBS Nagar, whereby, the respondents No. 1 and 2 were ordered to be acquitted.

2. As per the case of the prosecution, a complaint was moved on 16.04.2013 by the applicant/complainant to SSP, SBS Nagar, mentioning therein that on 16.12.2011, she was married to Daljit Rai son of Gurdev Ram. Respondents No. 1 and 2 were the mediators in the said marriage. The respondent No. 2/accused is the real sister of Daljit Rai whereas respondent No. 1 is the husband of respondent No. 2. At the time of marriage, gold jewelry of more than Rs. 5 lacs was given to Daljit Rai and the said accused. After the marriage, she started residing with Daljit Rai in her matrimonial home and, thereafter, her husband went to Italy in February 2012. From 16.12.2011 to February 2012, Daljit Rai used to remain sick and his relatives used to take him for doctor for having medicines, however, nothing was disclosed to the petitioner regarding the disease of Daljit Rai. After Daljit Rai went to Italy her sister-in-law Rimmi, Harjit husband of Rimmi and her mother-in-law Jggdish Kaur started harassing her. Thereafter, her husband came back from Italy and they started residing like couple. Her in-laws never disclosed about the disease of Daljit Rai who ultimately expired on 26.02.2013. After his Bhog ceremony on 10.03.2013, her parents brought her alongwith them to their house and when they accompanied her to live at her in-laws house, her in-laws refused to keep her with them and since then she was residing with her parents. Thereafter, she came to know

from some relatives that Daljit Rai was suffering from HIV for the last many years and he was sent back to India from Italy only on this ground. However, the respondents and the other accused never disclosed this fact to her and fraudulently got her marriage conducted with Daljit Rai. She also got herself medically examined from civil hospital and came to know that she was also HIV positive and she was getting treatment for the same. The accused has spoiled her life by not disclosing about the disease with which Daljit Rai was suffering and even they had refused to keep her in their matrimonial home. The respondents were charged for the offences punishable under Sections 406 and 417 IPC. However, after holding the trial the respondents No. 1 and 2 were ordered to be acquitted by the trial Court and their acquittal was upheld by the first appellate Court.

3. Learned counsel for the petitioner submitted that respondents No. 1 and 2 were very well aware of the fact that Daljit Rai was suffering from AIDS and still both the accused had intentionally induced the petitioner to marry Daljit Rai. Even it was clearly proved that Daljit Rai was suffering from AIDS since long and this fact was never disputed by the defence also. Even, the accused used to arrange medicines to Daljit Rai and well aware of the fact that he was suffering from AIDS. Still further, there was sufficient evidence on record to prove the entrustment of gold ear rings to Rimmi @ Rajinderjit Kaur and also the entrustment of one gold ring to Harjit Singh, respondent No. 1/accused. Still further, the articles

were recovered from both the accused. Still further, both the accused had clearly failed to prove that the ingredients of the offence under Sections 406 and 417 were not complete and the respondents No. 1 and 2 have been wrongly acquitted.

4. Having heard learned counsel for the parties and perusing the record, this Court is of the considered opinion that there is no serious infirmity in the impugned judgments passed by the Courts below. In the present case, the applicant had alleged that she was induced by the respondent No. 2 to marry her brother Daljit Rai, whereas she was aware of the fact that Daljit Rai was suffering from AIDS. However, both the Courts have rightly observed that while appearing as PW2, the present applicant could not lead any evidence to show that the respondent No. 2 was having any grudge or enmity with the present petitioner. Still further, except the bald statement made by the petitioner before the trial Court, there was no other evidence on record, which could show that the present respondents were aware of the medical condition of Daljit Rai or they were getting medicines of AIDS from doctor. Still further, even PW2 Sheenu petitioner had admitted herself that at the time of the marriage of her husband, her husband Daljit Rai had come from Italy. Apart from that, in her petition under Section 12 of the Protection of Women from Domestic Violence Act 2005, the petitioner herself admitted the fact that Daljit Rai had come for the marriage from Italy after 15 years. Thus, it is unbelievable that respondents No. 1 and 2 were having

knowledge of the fact that Daljit Rai was suffering from AIDS and the findings recorded by both the Courts are liable to be upheld by this Court. Apart from that, the petitioner had also failed to prove on record that the dowry articles were misappropriated by the respondents No. 1 and 2. First of all, PW2 Sheenu Bharti petitioner and PW9 Major Dass had not levelled any allegation to show that the present respondents had demanded any dowry from the petitioner or her father. Still further, no evidence was led by the petitioner to show that the in-laws of the petitioner had been raising demand or had been harassing the petitioner in connection with demand of dowry or regarding the misappropriation of the dowry articles. Thus, the basic ingredients of the offence were completely missing in the present case. Even otherwise, I have gone through the impugned judgments and found no infirmity, illegality or perversity in the same and accordingly the present revision is dismissed.

5. Pending application(s), if any, is also disposed off.
6. Case property, if any, be dealt with, and, destroyed after the expiry of period of limitation for filing the appeal, in accordance with law.

13.09.2023

amit rana

(N.S.SHEKHAWAT)

JUDGE

Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No