

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

237

CRR-156-2020 (O&M)
Date of order: 15.02.2024

Rajvir Kaur

.....Petitioner(s)

Vs.

State of Punjab & Others

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ravi Gakhar, Advocate
for the petitioner.

Ms. Aakanksha Arora, AAG Punjab.

Nidhi Gupta, J.

Challenge in the present petition is to order dated 14.11.2019 passed by learned Additional Sessions Judge, Fatehgarh Sahib; upholding the order dated 05.05.2017 passed by learned Additional Chief Judicial Magistrate, Fatehgarh Sahib, whereby the respondents No.2 to 4 herein have been acquitted in case FIR No.18 dated 07.02.2015 under Sections 406 and 498-A IPC registered in Police Station Sirhind.

2. Brief facts of the case are that the complainant/petitioner was married to respondent No.2 on 18.05.1997. Four children i.e. two daughters and two sons were born out of their wedlock. Parties are living separately since January, 2015. FIR was registered on 07.02.2015, on the basis of application moved by the petitioner before the SSP, Fatehgarh Sahib.

3. Learned counsel for the petitioner inter alia submits that the learned Courts below were in patent error in acquitting the

accused/respondents No.2 to 4 herein, without appreciating the comprehensive evidence led by the petitioner on record which proves beyond doubt that the petitioner was treated with cruelty in her matrimonial home. It is submitted that learned Courts below have failed to appreciate that minor discrepancies are bound to appear in the statements of the petitioner over a period of time. Moreover, it has been proved on record that on 18.05.1997, the accused persons were entrusted with dowry articles of complainant/petitioner. Yet, learned Courts below have held that the prosecution has failed to bring on record sufficient evidence to show that dowry articles/Istridhan were entrusted to accused persons/respondents No.2 to 4 herein. It is submitted that thus the findings of the learned Courts below are purely against the facts and record.

4. No other argument is made on behalf of the petitioner.

5. I have heard learned counsel for the petitioner, and perused the file and evidence on record in great detail, as also the judgments of the Id. Courts below returning concurrent findings against the petitioner.

6. Relevant findings given by learned Additional Sessions Judge, Fatehgarh Sahib are as under:-

“10. In the present case, it is the case of the complainant that she was harassed by her husband and in laws on account of bringing insufficient dowry and further it is the specific stand of the complainant that a demand of Car and Rs.5 lacs was made by the accused persons. On careful scrutiny of the cross-examination of complainant transpires that she herself admitted in her cross examination that till the year 2008, her relations with her in laws were good. She failed to give any

specific date or details of the occurrence and alleged demands. She has specifically stated that on 09.01.2013, she was given severe beatings by the accused persons and was turned out of her house, but she could not bring on record any medical record on file in order to substantiate her stand. The complainant during her cross-examination had admitted that there arose a dispute between her and her husband regarding jewellery at the time of going to the marriage of her Bhua's son. She also admitted that when she went to her parents house, her husband made request to her through Panchayat several times, but she did not join his company. These admissions read in the light of above discussion create a reasonable doubt against the story of the complainant. Despite allegations of severe beatings no report was lodged by the complainant or her family members at Nabha immediately after the occurrence. Even the first application as well as present FIR was lodged after four months of the alleged occurrence.

11. The prosecution witnesses i.e. PW4 Gurdish Singh & PW5 Manjit Singh are none other than but the brother and uncle of the complainant and are interested witness and accordingly their testimony cannot be relied upon as they deposed in sync qua the complainant. As far as testimony of PW6 and PW8 are concerned, the same are based upon hear-say and is of no avail to the prosecution.

12. In the present case, complainant never stated that the dowry articles/Istri-dhan was given as per demand by the accused. No recovery of any articles has been effected from the accused persons so as to show that the same were misappropriated by the accused. Mere, vague allegations have been levelled by the complainant without supporting them with any cogent and convincing evidence. In the entire episode, the allegations levelled by the complainant are inflated and

exaggerated with an intention to rope every relation of the husband”.

7. Relevant findings given by learned Additional Chief Judicial Magistrate, Fatehgarh Sahib are as under:-

“17. Perusal of the file shows that the accused in this case have been charged for the commission of offence punishable under Sections 406/498-A of the IPC. To prove its charges the prosecution was required to bring on record that dowry was given which was misappropriated by the accused persons and further that there was a demand of more dowry and consequently the complainant was harassed with the demand. The complainant of this case appeared into the witness box and deposed regarding the factum of marriage and spending of Rs.7 lacs on the marriage. She further deposed regarding the misappropriation of dowry articles, demand of dowry and beatings by the accused persons, but this testimony of the complainant shows that there is no evidence of any kind to show that the alleged dowry/Istri-dhan articles given at the time of marriage were entrusted to the accused persons. A careful perusal of her testimony shows that the complainant has only mentioned that all the dowry articles were sent to Surjan Singh and others. There is no specific averments regarding entrustment to the accused. Further perusal of the file shows that no recovery of alleged Istri-dhan/dowry articles was effected from the accused during the course of investigation. No explanation whatsoever has been rendered by the complainant as to if such articles were given in dowry, then why the same could not be recovered from the accused persons. The brother of the complainant, who appeared into the witness box as PW3 Gurdish Singh produced a Bahi Khata to show that such expenses tuning to Rs.7 lacs were made at the marriage of the complainant, but during the course of

cross-examination, he stated that he was not present when the said Bahi Khata was prepared. He further admitted that the Bahi Khata does not bear the signatures of the scribe i.e. Ajaib Singh. Said Ajaib Singh when appearing as PW6 did not state anything about the Bahi Khata, nor the Bahi Khata formed a part of the investigation. It was never produced before the police so as to determine its authenticity. No bills regarding purchase of said dowry articles have been produced on the record to support the contentions of the complainant. No doubt the court is awake to the fact that the marriage was solemnized way back in the year 1998 and therefore the bills could not have been produced after more than fifteen years of the marriages, however this court at the same time cannot lose sight of the fact that the complainant could have very much proved the Bahi Khata produced by them during the course of trial. There is no explanation whatsoever as to why the said Bahi Khata was not produced before the Investigating Team. The complainant could have examined the witnesses, who were party to the celebration of the marriage to prove that the dowry articles were so given and entrusted to the accused persons, but except for the complainant, none of the witnesses have deposed regarding giving of dowry and entrustment. Even the brother of the complainant in his examination in chief while appearing as PW4 just stated that his father had given all the dowry articles to his sister, but he has not deposed anything regarding what dowry articles were given and to whom they were entrusted”.

8. A combined reading of the judgments/concurrent findings returned by the Courts below reveals that it has been clearly found that petitioner has admitted that she was happy in her matrimonial home till the year 2008; thereafter, although it was alleged by the petitioner that

she was beaten by the respondent, however, there was no medical record in support of the said allegation; moreover, neither was cruelty proven against the respondents and no specific dates or instances of cruelty were cited by the petitioner; nor could the petitioner prove misappropriation or entrustment of dowry articles; in fact, no recovery of dowry articles was made from the respondent/accused.

9. Learned counsel for the petitioner is unable to controvert or dispute the above said concurrent findings of the Courts below.

10. In view of the above, I find no merit in the present petition, and the same is accordingly **dismissed**.

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

15.02.2024
Sunena

(Nidhi Gupta)
Judge

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