

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

204

CRM-A-1141-MA-2014(O&M)

Date of order: 18.04.2024

Harjinder Kaur

.....Applicant(s)

Vs.

Kanwaljit Singh & Another

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ranjit Saini, Advocate
for the applicant.Ms. Meena, Advocate for
Mr. Amit Arora, Advocate
for the respondents.

Nidhi Gupta, J.

This is an application under Section 378(4) Cr.P.C. for grant of special leave to file appeal against impugned order of acquittal dated 06.05.2014 passed by learned Judicial Magistrate, 1st Class, Tarn Taran in complaint case instituted under Sections 498-A, 406 and 34 IPC at Police Station City Tarn Taran.

2. Applicant before this Court is the complainant. Vide impugned judgment dated 06.05.2014 passed by learned JMIC, Tarn Taran, complaint No.6 dated 21.01.2005, registered under Sections 498-A, 406 and 34 IPC at Police Station, City Tarn Taran, has been dismissed. There were four accused in the present case. Accused No.1 is the husband; accused No.2 is the mother-in-law; accused No.3 is the brother-in-

law/devar; and accused No.4 is the sister-in-law/devrani of the applicant/complainant.

3. Learned counsel for the applicant inter alia submits that the applicant was married to respondent No.1 on 08.04.2003. One daughter was born out of this wedlock on 14.04.2004. Due to birth of daughter, the accused persons started harassing the applicant and eventually turned her out of the matrimonial home in three wearing clothes with the threat that until she brought Rs.1.50 lakh from her parents for purchasing a tractor, she will not be allowed to enter her matrimonial home. In December, 2004, father of the applicant had convened a Panchayat for amicable solution of the disputes between the parties and requested the accused persons either to rehabilitate the applicant or hand over the dowry articles but the accused persons refused to oblige. It is submitted that rather, the accused persons misappropriated the dowry articles for their own use and accordingly, the applicant was left with no alternative but to file the present complaint.

4. Learned counsel submits that the applicant has produced sufficient evidence on record in support of her allegations. Her father, Mangal Singh, was examined as CW1; Piara Singh as CW2; and the applicant herself appeared as CW3. All witnesses fully supported and corroborated the version of the applicant in every respect and therefore, case of the applicant stood duly proven on record. Despite that, the learned trial Court has dismissed the applicant's complaint. It is further submitted that a finding has been given by the learned trial Court in the impugned order to the effect that it was stated by the applicant and her father that

she would go back to the matrimonial home only if 5 acres of land is transferred in the name of the applicant. Learned counsel submits that such contention was made by the applicant only due to the fact that respondent No.1/husband was going to sell the land, whereas the applicant wanted some security for herself and her minor daughter. It is stated that accordingly, the learned trial Court has misinterpreted the statements of the applicant and her father and derived a wrong conclusion from there. Therefore, positive evidence has been led by the applicant in support of her allegations. However, the same has not been seen in the correct light by the learned trial Court. It is accordingly prayed that the impugned judgment be set aside.

5. No other argument is made on behalf of the applicant.

6. I have heard learned counsel for the applicant and perused the case file in detail.

7. Record shows that this application is of the year 2014. The same was dismissed for non-prosecution on 06.04.2017; and was restored to its original number on 06.09.2017. Thereafter, the matter was again repeatedly adjourned at request of counsel for the applicant.

8. Perusal of record of the case shows that the applicant was married to respondent No.1 on 08.04.2003. One daughter was born out of this wedlock on 14.04.2004. Due to matrimonial discord between the applicant and respondent No.1, he had filed a petition under Section 13 of the Hindu Marriage Act, 1955, which was dismissed in default by the learned Additional District Judge, Tarn Taran vide order dated 12.10.2012.

It has been brought to the notice of this Court that subsequently, the FAO filed by respondent No.1 against the said order dated 12.10.2012 has also been dismissed.

9. Perusal of record of the case further shows that it has been categorically recorded by the learned trial Court in the impugned judgment that the applicant and her father Mangal Singh/CW1 have specifically admitted in their respective cross-examination that if 5 acres of land is transferred in name of the applicant, she would be ready and willing to go back to her matrimonial home and reside there with her husband. On a Court query, it is admitted by learned counsel for the applicant that the applicant had produced no evidence on record to substantiate her apprehension that respondent No.1 was going to sell the land. It is further admitted by counsel for the applicant that the applicant had raised no such plea regarding this apprehension before the learned trial Court and the same has been made for the first time only in the present Grounds of Appeal.

10. The relevant findings returned by the learned trial Court are as under:-

“11. From the rival contentions of the Id. Counsel for the parties, I am of the considered view that the admission of the complainant and her father that the complainant is ready and willing to go back her matrimonial home and reside with her husband if Five acres of land is transferred in her name proves fatal to the complainant's allegation of harassment and maltreatment at the hands of the accused for bringing insufficient dowry. As it seems that the real reason for the

complainant refusing to reside in her matrimonial home is the fact that 5 acres of land has not been transferred to her name by the accused. Secondly, the absence of any documentary proof regarding the allegations of maltreatment and torture by the complainant further corroborates the same. Thirdly, the absence of any bill regarding the dowry articles allegedly entrusted to the accused also creates doubts about the claim of the complainant about entrustment. Therefore, I am of the considered view that the complainant has failed to prove the charges framed against the accused beyond reasonable shadow of doubt. And therefore, the accused are entitled to be acquitted of the charges framed against them giving benefit of doubt. Their bail bonds and surety bonds stands discharged. File be consigned to the record room."

11. Counsel for the applicant has miserably failed to controvert or dispute the above said findings. Accordingly, I find that no ground is made out to interfere in the impugned order. Present application accordingly, stands **dismissed**.

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

18.04.2024
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No