

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

**CRR No. 578 of 2016 (O&M)  
Reserved on : 01.12.2023  
Pronounced on : 05.01.2024**

**Palwinder Singh** **...Petitioner**

**Versus**

**State of Punjab and another** **...Respondents**

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Raj Kumar Gupta, Advocate  
for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab.

Mr. Jatin Kundu, Advocate for  
Mr. K. S. Dhaliwal, Advocate  
for respondent No. 2/complainant.

**MANISHA BATRA, J.**

1. The instant revision petition has been filed by the petitioner against the judgment of conviction dated 02.12.2011 and order on sentence of the even date, passed by the Sub Divisional Judicial Magistrate, Jagraon, vide which, the petitioner was held guilty for commission of offence punishable under Section 498-A IPC and was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs. 3,000/- with default clause as well as against the judgment dated 06.01.2016, passed by the lower appellate Court, whereby the appeal filed by the petitioner against the judgment of the trial Court had been dismissed.
2. Brief facts of the case relevant for the purpose of disposal of this revision petition are that respondent No. 2/complainant filed the

Neutral Citation No. 2024:PHHC:000648

aforementioned complaint against the present petitioner and his parents alleging therein that she got married with the petitioner on 06.12.1996. Sufficient dowry articles were given at the time of her marriage, which were entrusted to the petitioner and his family members. Soon after her marriage, her in-laws started subjecting her to cruelty on account of demand of dowry. She was maltreated at their hands and was ultimately left at her parental house by the petitioner on 16.08.2001. Her *Istridhan* had been misappropriated by the petitioner and his family members. On presentation of the complaint and after recording preliminary evidence, the trial Magistrate, vide order dated 21.02.2004, summoned the present petitioner and his parents as accused to face trial for commission of offences punishable under Sections 406 and 498-A of IPC. Pre-charge evidence was recorded. Vide order dated 07.05.2008, the petitioner and his parents were chargesheeted for the offences punishable under Sections 406 and 498-A read with Section 34 of IPC. In after charge evidence, the respondent/complainant produced herself as CW-1, Darshan Singh as CW-2 and Major Singh as CW-4. Statements of the petitioner and other accused were recorded under Section 313 Cr.P.C. In defence evidence, the petitioner had examined one witness and thereafter, it was closed. After considering the contentions raised by both the sides and appreciating the evidence produced on record, the trial Court, vide order dated 02.12.2011, held the petitioner guilty for commission of offence punishable under Section 498-A IPC and he was sentenced in the manner as mentioned above, whereas co-accused i.e. the parents of the petitioner were acquitted of the charges framed against them. The petitioner challenged the order passed by the trial Court by way of filing an appeal before the lower appellate Court, however,

the same was dismissed, vide order dated 06.01.2016. Hence, the present revision petition.

3. It is submitted in the grounds of revision and learned counsel for the petitioner argued that the order dated 02.12.2011 as passed by the trial Court, thereby holding the petitioner guilty for commission of offence punishable under Section 498-A IPC as well as the order dated 06.01.2016 as passed by the lower appellate Court, upholding the conviction of the petitioner, are not sustainable in the eyes of law. The Courts below did not apply their judicious mind. There was no evidence worth the name to prove that the petitioner had committed any offence punishable under Section 498-A IPC. False, general and omnibus allegations had been levelled against the petitioner as well as his parents and on the same set of allegations, his parents were acquitted, whereas he has been wrongly held guilty and sentenced. He further argued that the lower appellate Court, while dismissing the appeal of the petitioner, had mainly relied upon the reports Mark 'A' and 'B' submitted by some officer of the rank of DSP, though neither said witness had been examined nor those reports were proved in accordance with law. Whimsical orders had been passed. The ingredients for commission of offence punishable under Section 498-A IPC had not at all been proved. With these broad submissions, he argued that the impugned judgments were liable to be set aside, the revision petition deserved to be accepted and the petitioner deserved to be acquitted of the charge framed against him under Section 498-A IPC.

4. *Per contra*, learned counsel for respondent No. 2/complainant argued that the judgments passed by the Courts below were well reasoned and

did not warrant any interference and urged that the present revision petition, being devoid of any merit, was liable to be dismissed.

5. Due deliberations have been given to the contentions raised by both the sides, besides going through the material available on record.

6. The petitioner had been chargesheeted and held guilty for commission of offence punishable under Section 498-A IPC. As per this provision, whoever being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Chapter XXA of IPC deals with offence of cruelty by husband or relatives of the husband. It defines the offence of cruelty as under:

“498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.—For the purpose of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

7. The allegations levelled in this case as against the petitioner were that after his marriage with respondent No. 2, he used to harass and humiliate

Neutral Citation No. 2024:PHHC:000648

her for more dowry. Respondent No. 2 alleged that when her husband, i.e. the petitioner, used to go for performing his duties, her parents-in-law used to harass and humiliate her and used to ill treat her and whenever he would come back, he also used to beat her on instigation of his parents. It was alleged in the complaint and in her sworn deposition that she was given taunts that she had not given birth to a male child and further stated that the behavior of her husband remained indifferent towards her and he had lastly left her at her parental house. The trial Court is shown to have arrived at a finding as to hold petitioner guilty for commission of offence punishable under Section 498-A IPC by observing that on 16.08.2001, he had left her outside her parental house, which amounted to mental cruelty on his part. Then on going through the judgment passed by the lower appellate Court, it is revealed that the main ground for upholding the findings of the trial Court was that the petitioner, being an employee of the Police Department, was asked to rehabilitate respondent No. 2 and was also offered a govt. accommodation in order to settle the dispute between them but he did not do so. The lower appellate Court relied upon some application Mark 'A' as moved by respondent No. 2 to the superior officer of the petitioner and a report Mark 'B', shown to be submitted by the DSP, 5<sup>th</sup> Commando Bahadurgarh, Patiala to the effect that the petitioner was adamant not to rehabilitate the respondent No. 2. On an overall assessment of the evidence produced on record as well as findings given by the Courts below, I am of the considered opinion that the same are not sustainable and are liable to be reversed due to the foregoing reasons.

8. For the purpose of holding the petitioner guilty for commission of offence punishable under Section 498-A IPC, it was required to be proved

Neutral Citation No. 2024:PHHC:000648

by respondent No. 2 that she was being subjected to cruelty at the hands of the petitioner with a view to coerce her or her family members to meet any unlawful demand for any property or valuable security or on account of failure of her or any person related to her to meet such demands. However, with regard to demand of dowry, false, general and omnibus allegations had been levelled in the complaint as well as in the evidence led by the witnesses. Even otherwise, if the allegations contained in the complaint as well as in the statements of the witnesses are read in its entirety, no offence punishable under Section 498-A IPC can be said to have been committed by the petitioner. It is well settled proposition of law now that 'Cruelty' as defined under Section 498-A IPC is to be read in the context of 'Cruelty' meted out, if any, to the victim on account of bringing less dowry/demand of dowry. There is, however, no material on record suggestive of the willful conduct, if any, of the petitioner to drive the complainant to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of herself. Similarly, there is no allegation that at any point of time, a demand, if any, came to be made by the petitioner for dowry or maltreatment on account of bringing less dowry. As per Explanation 'b' appended to Section 498-A IPC, harassment of a woman must be with a view to coerce her or any person related to her to meet any unlawful demand for any property or valuable security or on account of failure by her or any person related to her to meet such demand. In this case, there is no whisper that the petitioner has ever coerced or maltreated her on account of bringing less dowry or made any demand of dowry. In ***Shakson Belthissor vs. State of Kerala and another : 2009 (14) SCC 466***, Hon'ble Supreme Court held that when there is no

Neutral Citation No. 2024:PHHC:000648

allegation of harassment on account of dowry, no offence of cruelty either under Explanation ‘A’ or ‘B’ of Section 498-A IPC is made out.

9. I would also like to refer to *Wasim vs. State (NCT of Delhi) : (2019) 7 SCC 435*, wherein the conviction of the appellant by the trial Court under Section 498-A IPC was not on account of demand of dowry and it was on account of mental cruelty by the appellant for having an extra marital relation. It was held that no case for holding the appellant guilty for commission of offence punishable under Section 498-A IPC was made out. The trial Court, while holding the petitioner guilty for commission of offence punishable under Section 498-A IPC and the lower appellate Court while upholding this conviction, ignored the fact that there was no cogent, convincing, reliable and direct evidence on record to prove that the petitioner was guilty of committing any such willful act or conduct, which was likely to drive the complainant to commit suicide on account of demand of dowry or she was harassed on that account.

10. In view of the above discussion, finding merit in the present revision petition, the same is accepted. The impugned judgment of conviction and order on sentence, as passed by the trial Court and subsequently upheld by the lower appellate Court, are set aside. The petitioner is acquitted of the charge framed against him. Personal bonds/surety bonds of the petitioner be discharged accordingly.

05.01.2024  
Waseem Ansari

(MANISHA BATRA)  
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes