

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
219 CRR-3486-2017 (O&M)
Date of decision: 05.02.2024

Jasmeen Kaur

...Petitioner(s)

Vs.

Kanwar Inder Singh & Another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. P.K.S. Phoolka, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present Revision Petition has been filed against the judgment dated 31.07.2017 passed by learned Additional Sessions Judge, Sirsa vide which the learned lower Appellate Court dismissed the appeal filed by the petitioner against judgment of acquittal dated 21.10.2016 passed by learned Judicial Magistrate, 1st Class, Sirsa, whereby respondent No.1 was acquitted; in case FIR No.914 dated 29.11.2011 under Sections 498-A, 406, 506 and 323 IPC.

2. It is the petitioner/complainant's case that on her wedding her parents had given gold articles to respondent no.1 (husband) and his family members. A Maruti Swift car and other dowry articles were also given by the petitioner's parents to the respondent No.1/accused persons. An amount of about Rs.15,00,000/- was spent by the complainant/petitioner's parents on her marriage. After some time of marriage her in-laws start taunting her about bringing less dowry and demanded one AC and one LCD and Rs.5,00,000/- cash. When she showed her inability, to bring these dowry articles she was tortured and finally she

was shunted out from her matrimonial house. The parents of petitioner also gave Rs.2,00,000/- to her in-laws. The Panchayat were also convened but of no avail. As such the petitioner was left with no alternative but to file the present FIR.

3. Learned counsel for the petitioner inter alia submits that although the prosecution had examined total seven witnesses in support of their case, however, learned Courts below have failed to consider the evidence led by the petitioner in correct light. It is reiterated that the petitioner had led categoric evidence to prove that her parents had given Rs.2 lakh to her in-laws and even Panchayat was convened, however, to no avail as the accused continued to demand dowry from the petitioner and her parents. It is submitted that continued demands of dowry articles in the shape of cash, LCD, TV and AC etc., have been proved on record; and even it has been proved that the petitioner was subjected to physical and mental cruelty. Yet, the learned Courts below have passed the impugned orders on the basis of conjectures and surmises.

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

5. I have heard learned counsel for the petitioner.

6. Perusal of the record shows that the petitioner was married to the respondent No.1 on 10.10.2010. No child was born out of their wedlock. Admittedly, the parties had started living separately after barely six months of the marriage. However, present FIR was registered on the basis of the statement of the petitioner on 29.11.2011.

7. In respect of the allegations made by the petitioner, as reiterated by learned counsel before this Court, the following findings of the learned trial Court are pertinent and are reproduced hereinbelow as follows: –

“15. In the present case the complainant has alleged that the demand of dowry articles was made from her parents by accused persons. PW4 Ranjit who is father of the complainant has himself in his cross-examination has stated that before marriage there was no settlement of dowry. He has admitted that the FD of amount Rs.2 Lac was made by the father of the accused in name of the complainant. If the accused party was in greed of demanding dowry they would not have made the FD in name of the complainant. There is no specific date mentioned in the complaint when the alleged demand was made. She is alleging that she was given beatings and was shunted house from the matrimonial house after some time of her marriage. There is no complaint or any medical evidence in support of her version. She has also alleged that a panchayat was convened. But no member of the panchayat has been examined by the complainant. There is no proof that any physical injury was caused by the accused to the complainant. From the facts of the complaint and the testimony of the complainant and eye witnesses it is not proved that any cruelty physical or mental was committed by the accused towards the complainant. It is settled law that every wear and tear of family life does not amount to cruelty. All the allegation leveled by the complainant are vague and general in nature. Thus it is concluded that prosecution has been failed to bring home the guilt of accused under Section 498-A IPC.

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*19. The allegations against the accused is that the parents of the complainant spent huge amount on the marriage of the complainant and the amount was misappropriated by the accused persons. She has also tendered the copy of bill of car gold articles etc. In this regard, the question before me is if any amount if spent on the marriage of the girl by her parents and the gifts are given during marriage without any demand then whether this fact constitutes any offence or not. The question has been answered in **Harmel Singh vs. State of UT Chandigarh, 2007 (1) RCR Criminal 789** that section 406, dowry act – Istri Dhan, at the time of marriage customary gifts given by the girl's side to the relatives*

of the boy without demand such gifts could not form part of istridhan, non return of gifts to bride – offence of misappropriation under section 406 IPC not made out.

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21.As far as the offence punishable under Section 323, 506 IPC is concerned as I have already discussed in foregoing paragraphs of these judgement that there is no proof of any physical injury caused by the accused persons to the complainant. There is neither any medical evidence nor any eye witness to prove that any injury was caused by the accused persons to the complainant. There is also no material evidence to prove that the complainant was criminally intimidated. Therefore it is held that the prosecution has been failed to bring home the guilt of accused under Section 323, 506 IPC.”

(Emphasis supplied)

8. Relevant findings given by learned lower Appellate Court are reproduced hereinbelow:-

“14. Even if all the allegations contained in the complaint Ex.PW2/A2 dated 06.02.2011 of the complainant Jasmeen Kaur (PW2) are admitted to be true, even then, no case either under Section 406 or under Section 498-A or under Section 323 or under Section 506 IPC is made out against the accused. It has been alleged by the complainant Jasmeen Kaur (PW2) in her complaint Ex.PW2/A2 as well as in her statement as PW2 in the court that she was given beatings several times by the accused. But, at no point of time, the complainant Jasmeen Kaur (PW2) got herself medico-legally examined to that effect. Therefore, the respondent-accused could not have been convicted under Section 323 IPC. The allegations under Section 506 IPC are general in nature and therefore, the respondent-accused could not have been convicted under Section 506 IPC also. It has been alleged by the complainant Jasmeen Kaur (PW2) in her complaint Ex.PW2/A2 that at the time of marriage her parents gave golden jewellery of 15 tolas consisting of ring and chain of the accused, ring of Harmanpreet Singh, ring of Jitenderpal Singh and ear rings of Ajit Kaur, Swift Car, clothes, four suits of Kanwar Inder Singh, two suits of Harmanpreet Singh, two suits and one shawl for Ajit Kaur and 11 other suits for relatives and other house-hold articles were given. Even this allegation is admitted to be true, even then, these articles are not covered under the definition of dowry, rather, these are customary gifts which are given at the time of marriage. Further, the

complainant Jasmeen Kaur (PW2) has admitted in her cross-examination that there was no even a talk about dowry prior to the marriage. But, she again stated in her cross-examination that a car was demanded 15 days prior to the marriage. Similarly, Ranjit Singh (PW4), father of the complainant-appellant has uttered the same words in his cross-examination. But, this allegation is not there in the complaint Ex.PW2/A2 of PW2. Further, there is no allegation in the complaint Ex.PW2/A2 of the complaint Jasmeen Kaur (PW2) that she ever demanded her Istridhan/dowry articles from the accused or that the accused ever refused to give the same back to the complainant. Therefore, the respondent-accused could not have been convicted under Sections 406, 498-A IPC".

(Emphasis added)

9. Learned counsel for the petitioner is unable to dispute the above said legal position and/or the concurrent findings returned by the courts below. Even nothing has been placed on record or produced before this Court to controvert the above said findings. Accordingly, in view of the above said uncontroverted factual position, I find no ground is made out to interfere in the impugned orders.

10. **Dismissed.**

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

05.02.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No