

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

224

CRR-582-2017(O&M)
Date of order: 13.03.2024

Saroj

.....Petitioner(s)

Vs.

Anand Singh & Another

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Jitender Dhanda, Advocate
for the petitioner.

Mr. Aditya Pal Singla, AAG Haryana.

Nidhi Gupta, J.

Challenge in the present petition is to judgment and order dated 24.12.2014 passed by learned JMJC, Jind, whereby respondents No.1 has been acquitted in case FIR No.478 dated 20.11.1996 registered under Sections 323, 406, 498-A, 506 read with Section 34 IPC at Police Station City Jind; and judgment dated 29.11.2016 passed by learned Additional Sessions Judge, Jind, upholding the aforesaid decision of the learned trial Court.

2. Learned counsel for the petitioner/complainant inter alia submits that the petitioner/complainant was married with the accused/respondent No.1 herein on 3.6.1990 as per Hindu rites and ceremonies. As per complainant her parents spent Rs.4 lacs at the time of her marriage while some gold ornaments and cash were also given at the time of ring ceremony. All the dowry articles including furniture were

entrusted to the accused persons, but the accused persons were not satisfied with the dowry articles. They demanded more dowry and harassed her for the same. They demanded Car, VCR and colour television etc. It is further averred that on 04.05.1995, father of the complainant had died and since then she is residing with her brothers at Jind. On 08.09.1996 a panchayat was convened wherein the accused party agreed to take her back to her matrimonial home, but later on they refused to take her back. Accused persons made demand of dowry from complainant, gave beatings to her and refused to return the dowry articles. It is in these circumstances that she was forced to take recourse to legal action against the accused persons.

3. It is submitted that the learned Courts below have failed to appreciate the cogent and exhaustive evidence brought on record by which the allegations made by the petitioner against the accused were sufficiently proved. However, the impugned orders have been passed on the basis of conjecture and surmises. It is further submitted that the petitioner had proved her case against respondent No.1/husband for harassment on account of demand of dowry, giving beatings and threat to life by leading convincing evidence, however, both the Courts below have failed to appreciate the same. A bare perusal of both the impugned judgments clearly reveals that both the Courts below have passed the impugned judgments only on the basis of assumptions and presumptions and by ignoring the material evidence pointing out towards guilt of respondent No.1. Both the Courts below have also failed to consider the aspect of motive despite specific evidence led by the prosecution.

4. No other argument is made on behalf of the petitioner.
5. I have heard learned counsel for the petitioner and perused the case file in detail.
6. This petition is of the year 2017 and notice has not yet been issued in the matter. Perusal of order sheets shows that on 31.08.2017 and 08.11.2017, there was no representation on behalf of the petitioner; and the matter was adjourned at request of learned counsel for the petitioner on 16.10.2018, 04.07.2019 and 30.08.2022.
7. The petitioner was married to respondent No.1 on 03.06.1990. Admittedly, they have been living separately since July, 1993. During the period of more than three years of cohabitation, she never filed any complaint of alleged harassment or maltreatment on account of dowry before any competent authority. Furthermore, the present FIR was filed by the petitioner/complainant on 20.11.1996 that is three years after separation from respondent No.1/husband.
8. It has also come on record that respondent No.1/husband had filed divorce petition on the ground of cruelty and desertion on 23.10.1996. It is only when the petitioner received the summons in the said divorce petition that she has filed present complaint on 19.11.1996, on the basis of which FIR was registered on 20.11.1996.
9. It is also not in dispute that the complainant/petitioner had written letter dated 26.09.1996 (Ex.D1) to her father-in-law, feeling sorry for her acts. In the said letter, the petitioner has admitted her mistakes and begged for forgiveness for harassing her husband and his

family members. To my mind, this is an admission of guilt on part of the petitioner and points to the fault of the petitioner and not of the accused.

10. Furthermore, it has been alleged in the FIR that the petitioner was beaten by her husband and his family members on many occasions. However, it is admitted that the petitioner neither reported the matter to any respectables in society, nor to the mediator of the marriage between the petitioner and respondent no.1, and neither there was any Panchayat convened to solve the issues between the parties. Even further, there is no medical evidence on record to show that the petitioner was ever beaten by the accused. Admittedly, the petitioner never got herself medically examined at any point of time.

11. As regards the various allegations made by the petitioner, findings recorded in relevant part of judgment dated 29.11.2016 passed by learned Additional Sessions Judge, Jind is reproduced hereinbelow:-

“33. Admittedly, the complainant was residing at her parental home since more than 3 years when she filed complaint Ex.PA on 19.10.1996 and since July, 1993 till filing of aforesaid complaint no incidence of any of cruelty or harassment or dowry except the testimony of the complainant that her husband did not turn up to take her back to the matrimonial home is filed. There is no dispute that husband, who does not call his wife does not mean any harassment for want of dowry.

34. The complainant has wrote a letter Ex.D1 to his father-in-law on 26.9.1996 i.e. just prior to filing of the divorce petition by her husband on 23.10.1996 seeking pardon of her alleged unwarranted act of harassing them. Learned trial court has

discussed letter Ex.D1 in detail. No doubt, from letter it can be said that she apologized or repented her previous acts but as she received the summon of divorce petition of her husband, she immediately filed the present complaint on 19.11.1996, if she was subjected to cruelty, harassment or maltreatment over not fulfilling the illegal demands of accused then she could have filed complaint earlier also. She was not prevented by anyone to lodge any complaint regarding the alleged behaviour of the accused or his family. As complainant remained silent since July 1993 till filing of the complaint it shows that if there was any harassment for want of dowry she has condoned the same. Moreover, she admitted that she does not know what is written in complaint Ex.PA as she simply signed it. It shows that complaint was drafted at the ill advice of some-one and not by the complainant, otherwise she would have endorsed all the contents of complaint Ex.PA.

35. As I have already sated that the prosecution has cited 19 witnesses in the list of witnesses attached with the challan sheet, who were mostly of village Bharan and of Jind including who allegedly. attended the panchayats on different occasion, but none of them has been examined by the complainant. It also creates suspicion over the alleged harassment, cruelty, maltreatment of complainant by accused for want of aforesaid dowry demand."

12. I am in complete concurrence with the above said findings and reasoning recorded by the learned Court below. Learned counsel for the petitioner is unable to controvert the above said findings of the learned Court below.

13. In view of the above, I find no infirmity in the impugned judgment dated 24.12.2014 passed by learned JMJC, Jind, and judgment

dated 29.11.2016 passed by learned Additional Sessions Judge, Jind.

Present petition accordingly stands **dismissed**.

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

13.03.2024	(Nidhi Gupta)
Sunena	Judge
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No