

**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH****230****CRR-344-2022 (O&M)****Date of order: 21.10.2024****Davinder Jeet Kaur****.....Petitioner(s)****Vs.****State of Haryana and another****.....Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Sukhdeep Singh, Advocate for the petitioner.*************Nidhi Gupta, J.**

The present petition is directed against the judgment dated 14.01.2015 passed by Ld. JMIC Assandh, District Karnal AND judgment dated 10.01.2018 passed by learned Additional Sessions Judge, Karnal whereby the Respondent No.2 has been acquitted in case F.I.R No.367 dated 16.06.2011 under Section 406, 498A, 323, 420, 506, 120B IPC lodged at Police Station Assandh, District Karnal.

Learned counsel for the petitioner/complainant *inter alia* submits that the accused/respondent No.2 is the brother-in-law of the petitioner. It is submitted that respondent No.2 has been wrongly acquitted by the learned Courts below as they have overlooked the fact that there is an allegation of bigamy against the husband of the petitioner. The husband, during his marriage with the petitioner, was already married to another lady in Germany which fact was never disclosed to the petitioner. It is submitted that the ocular evidence has been relied on to show that the respondent has committed the offence under Section 406,



498A, 323, 420, 506 and 120B IPC. Merely because the husband of the petitioner is PO, does not ipso facto give right upon the respondent No.2 to subject the petitioner with cruelty.

It is further submitted that the ocular evidence on record clearly proves the guilt of the respondent No.2 for the commission of offence under Section 498-A and 406 IPC. Initially, on demand of return of istridhan made by the petitioner, her istridhan was not returned to her. Thereafter, recovery was effected only in pursuance to the arrest of respondent No.2. However, this fact has been overlooked by the learned trial Court in the impugned judgment dated 14.01.2015. Moreover, the learned trial Court had failed to appreciate that merely because list of dowry articles was not signed by bride or groom could not be a ground for acquitting the accused. Even the fact that there is no time, date or place mentioned, or what injury is caused to the petitioner has not been mentioned, does not constitute sufficient ground to acquit the accused.

No other argument is made on behalf of the petitioner.

I have heard learned counsel for the petitioner and perused the case file in great detail.

Perusal of record of the case shows that the complainant/petitioner had filed a complaint in the Court against three accused persons, the same being husband, mother-in-law, and brother-in-law/respondent no.2, of the petitioner. The said complaint was filed by the petitioner under sections 406, 498-A, 323, 420, 506 & 120-B IPC, which was sent under section 156(3) Cr.P.C for registration of FIR and investigation, by the learned Magistrate. The complainant had alleged in her complaint that her



marriage was solemnized with accused no. 1 namely Harjinder Singh on 21.01.2007 as per Sikh customs and a sum of Rs. 35 lakhs had been spent by the father of complainant in this marriage. It was alleged that the accused no.1 alongwith his family members were not satisfied with the dowry articles given in the marriage, therefore, they used to harass the complainant for demand of dowry and a condition was imposed upon her that if she wanted to accompany her husband Harjinder Singh at Germany, then she was required to bring Rs. 30 lakhs more. It was further alleged that although, the father of complainant had given Rs.8.5 lakh when the accused had demanded a TATA Safari car, but when the further demand of accused was not fulfilled, then she had been beaten up mercilessly by all the accused. Other incidents were also mentioned in the complaint, and it was prayed that the accused be prosecuted under the relevant sections of IPC.

After registration of FIR only accused Jaswinder Singh (brother-in-law)/respondent no.2 and Lakhwinder Kaur (mother-in-law) of the petitioner were challaned by the police. The mother-in-law of the petitioner has expired and, therefore, proceedings qua her stood abated. And vide impugned order dated 14.01.2015, the brother-in-law/respondent No.2 had been acquitted.

It is alleged by the petitioner that she was beaten up mercilessly by the three accused on several occasions. However, it is the admitted case of the petitioner as pleaded in para 3 of the present petition that *"there is no specific time, date or place the injury/hurt was caused by the accused persons."* As such, admittedly, no date, time or place of



incident is mentioned as to when beatings were inflicted upon the petitioner. It is not even mentioned as to what injuries were caused to the petitioner. Even there is no medical evidence on record to support the allegations of the petitioner. It has, accordingly, been categorically noted in the impugned judgments by both the Courts below that no specific allegation has been made against any of the accused individually. Only vague and general allegations have been made that the accused used to inflict beating on the petitioner. Clearly, therefore, no offence under section 498-A IPC is made out against the accused.

The same is the case with regard to allegations made by the petitioner for alleged commission of offence under section 406 IPC. It has been again recorded in both the impugned judgments of acquittal that only vague and general allegations have been made by the petitioner. Furthermore, there are discrepancies in the various statements made by the petitioner and other prosecution witnesses. In her complaint, the petitioner has stated demand of Rs.30 lacs was made by her husband for taking her to Germany; whereas in her cross-examination, she has stated that amount of Rs.25 lacs was demanded by Harjinder Singh for taking her to Germany. However, Kuldeep Singh/PW1/cousin brother of the petitioner has admitted in his testimony that no dowry was ever demanded by the accused in his presence and that he was told about the said dowry demand by the middleman. PW1 has further admitted that he was not present at the time when father of the complainant had allegedly given Rs.8.5 lacs to the accused for purchase of car. PW1 has further admitted in his cross-examination that he was neither present at the time of giving Bullet



motorcycle nor at the time of giving amount for car. Thus, evidence of PW1 is hearsay as he was not an eyewitness. There are further discrepancies in the version of PW1, as per whom, Harjinder Singh had gone to Germany after 45 days of marriage and had returned thereafter only in February 2010. However, as per version of Jaswinder Singh PW2, Harjinder Singh had gone to Germany 45 days of marriage and had returned in between in December 2008 and thereafter on 13.01.2010. It was in this background; the accused came to be acquitted.

Furthermore, the petitioner has stated nothing as regards when, where and in what manner dowry articles were allegedly entrusted by her to the accused persons. It is by now established in law that in order to set up an offence under Section 406 IPC, the following ingredients have to be proven:-

- a. demand of dowry by the accused;
- b. entrustment of istridhan articles by the victim to the accused;
- c. misappropriation of the said istridhan; and
- d. demand by the victim for return of the said istridhan articles and refusal part of the accused to return dowry articles to her.

It is to be noted that dowry articles/istridhan is to be distinguished from customary gifts which are given at the time of marriage. In the present case, admittedly, petitioner herself has not stated anything as to when any dowry articles were handed over by her to the accused persons, to whom they were handed over; nor has any bill of dowry articles been placed on record by her. As such, she cannot derive any benefit from merely the list of dowry articles (Ex.PW2/B). Moreover, it has also been



admitted by the petitioner in para 3 of the present petition that the alleged list of dowry articles was not signed by the bride and groom.

In view of the above facts, no ground to interfere in or disturb the concurrent findings returned by both the courts below in the impugned judgments, is made out. As such, the present petition is **dismissed**.

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

21.10.2024

Divyanshi

(Nidhi Gupta)

Judge

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