

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-2422-2022(O&M)

Date of order: 01.04.2024

Rekha

.....Petitioner(s)

Vs.

State of Haryana & Others

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vivek Aggarwal, Advocate
for the petitioner.

Mr. Aditya Pal Singla, AAG Haryana.

Nidhi Gupta, J.

Challenge in the present petition filed by the complainant is to order dated 17.09.2016 passed by learned Judicial Magistrate, 1st Class, Bhiwani and judgment dated 19.07.2022 passed by learned Sessions Judge, Bhiwani, acquitting the accused/respondents No.2 to 4 herein, in case FIR No.425 dated 02.07.2012 registered under Sections 498-A, 406, 323 and 34 IPC at Police Station City Bhiwani.

2. Brief facts of the case as per the complainant/petitioner are that the marriage of the petitioner was solemnized with the respondent no.1 on 21.11.2011 at Bhiwani. The father of the petitioner spent the amount as per his status. It has been alleged that after the marriage, the respondents no.2 to 4 started demanding dowry from the petitioner. When the petitioner objected to it, they gave merciless beatings to the petitioner

on 10.2.2012. Due to the serious injuries suffered by the petitioner she was admitted in Shiv Heart and Medical Centre, Rewari for her treatment.

3. As respondents no.2 to 4 did not stop harassing the petitioner, she gave a complaint before ASI Krishna, In-charge of Women Cell, Bhiwani, on 14.05.2012. On basis of the complaint, an FIR no.425 of 2012 under Section 406,498-A, 323 was registered at Police Station Bhiwani. However, although the respondents no.2 to 4 faced trial at District Courts, Bhiwani, vide impugned order dated 17.09.2016 respondent's no. 2 to 4 were acquitted by the trial court on the basis of benefit of doubt.

4. As the petitioner was not satisfied with the judgment dated 17.09.2016 of the Ld. JMIC she filed Cr. Appeal before the Session court. However, even the appeal filed by the petitioner was dismissed by Ld. Additional District and Session Judge vide order dated 19.07.2022 acquitting the accused persons. Hence, present revision petition.

5. Learned counsel for the petitioner inter alia submits that in passing the impugned orders, the learned Courts below have totally ignored the deposition of the petitioner and her father Suresh, who had specifically stated that respondents No.2 to 4/accused had taunted the petitioner that she had not brought sufficient dowry. It is contended that the Courts below have not considered that at the time of marriage, father of the complainant gave dowry articles and one car to the accused persons. The car was issued from CSD canteen on the demand of the accused persons/respondents No.2 to 4; and after dispute between the complainant

and respondent No.2, the father of the complainant got the car released on superdari. The car was in the name of the complainant.

6. It is further submitted that both the Id. Courts below have failed to consider that on 10.02.2012, respondents No.2 to 4 had given merciless beatings to the complainant as a result of which she was admitted in hospital. The complainant filed a complaint qua the incident pertaining to 10.02.2012 and its reference has been made in Ex.PW5/A but both the learned Courts have not considered it; that after the incidents on 10.02.2012, the complainant informed the incident to her father and thereafter immediately her father talked to her father-in-law regarding the incident.

7. It is further contended that due to dowry demand two three times panchayat was held between both the parties, and every time the accused gave the assurance that such type of incidents will not happen next time. Both the Courts acquitted the accused on the ground that the complainant has not particularly deposed the date of incidents. Both the Courts have not considered that regarding the incidents the father of the complainant telephonically informed to SP, Rewari.

8. It is submitted that even in her cross-examination, the testimony of the petitioner could not be shaken despite this, respondents No.2 to 4 have been acquitted. It is accordingly prayed that the aforesaid impugned orders/judgments be set aside.

9. No other argument is made on behalf of the petitioner.

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

11. Perusal of record of the case shows that the petitioner was married to respondent No.2 on 21.11.2011. Admittedly, parties are living separately since February, 2012 itself. No child was born out of this wedlock. Although, it is the case of the petitioner that she was severely beaten up by respondents No.2 to 4 on 10.02.2012 and she was even admitted in a hospital, however, she has failed to produce any medical record in support of her version. In this respect, relevant findings of the learned trial Court are as under:-

“9. The allegations against the accused are that they physically and mentally tortured the complainant so that she would satisfy their demands of dowry. Apart from that there are also allegations that they misappropriated the dowry articles and also caused hurt to the complainant. To see whether such acts were committed by the accused or not, we have to first peruse the complaint Ex.PW4/A upon which the present case was registered. In the complaint, there are mainly four allegations against the accused. Firstly, it has been alleged that the accused used to say that numerous proposals were coming for the accused Parveen with the offers of Honda City Car and Rs.5 lacs cash to be given in dowry. The second allegation is regarding beatings and assault on the complainant on 10.02.2012 by the accused. The third allegation is of demand of Rs.2 lacs in dowry from the complainant out of which 1,45,000/- rupees were given by the father of the complainant to the accused. The fourth allegation is of shunting the complainant out of her matrimonial house, of which no specific day was mentioned.

10. The complainant as well as her father Suresh in their deposition before the Court submitted that the accused used to taunt the complainant that she had not brought sufficient dowry and offers of Honda City Car and Rs.5 lacs were made earlier by people for the marriage of the accused. This allegation has not been substantiated by any corroborating

evidence whatsoever. This is the version of the complainant only and the same could not taken as gospel truth in absence of any corroborating circumstance. No specific date or time of such taunt was mentioned by the complainant. Such day of occurrence was not even submitted in her complaint nor was mentioned in her deposition before the Court. Even otherwise, such a remark cannot be taken as so grievous as to compel the complainant to the point of suicide. Also such remark could not be taken to be having an ulterior motive of illicit demand of dowry from the complainant. Mere remark, that too when it is not clear who made such remark, cannot be taken as harassment in order to demand dowry.

11. The second allegation is of beatings and assault by the accused on 10.02.2012 to the complainant. In her complaint itself, the complainant Rekha submitted that the accused assaulted her on 10.02.2012 and she was admitted in Dr. Shiv Rattan Yadav, Hospital. The complainant failed to mention the name of the person who got her admitted in the hospital. In the complaint herself she submitted that at the time of her admission in hospital, her father was in Bhopal (M.P.) and her mother was in Bhiwani. If it is taken to be true that the complainant was admitted in hospital, the most probable scenario would have been that this admission in hospital was done by the accused themselves. This fact corroborates the version of the accused as pointed out in the suggestions given to the complainant by the counsel for the accused, that the complainant had cut her veins and due to this fact she was admitted in hospital. No medical record whatsoever was placed on file or brought in evidence by the complainant or her father to support their version. In his deposition as PW2 before the Court, the father of the complainant submitted that he had called on the same day to the uncles of the accused and have also inquired about the matter from his own relatives in Rewari. If such an act had happened, the aforesaid persons could have been brought before the Court by the prosecution to depose regarding the alleged assault on her by the accused in demand with dowry which was not done. Therefore, this allegation of the complainant is also not proved by the prosecution beyond shadow of reasonable doubt.

12. The third allegation is regarding demand of Rs.2 lacs from the complainant and her father. The father of the complainant as well as the complainant herself in their depositions as PW1 and PW2 submitted that Rs.1 lac was handed over by the

father of the complainant to the complainant herself. The alleged money was not given to the accused by the father of the complainant. The father of the complainant mentioned that he had handed over the money to the daughter and he did not know to whom, his daughter gave money. Also no specific date of such demand was mentioned by the father of the complainant. Thus, this allegation of the complainant also becomes doubtful and cannot be relied upon to secure conviction of the accused.

13. The fourth allegation is regarding the misappropriation of the istridhan of the complainant. Admittedly, the complainant as well as her father did not bring on record any proof of ownership of the articles which were seized by the police. The entrustment as well as the misappropriation of the articles has not been proved and just because same household dowry articles were in possession of the accused, it does not show or mean that the same were entrusted by the complainant to them and were misappropriated by them with dishonest intention.

14. One more aspect of the case is that before filing the complaint Ex.PW4/A, the complainant had earlier filed an application before Mahilla Cell, Bhiwani Ex.D2, in which the in-charge Krishna ASI had found that there was no truth in allegation of the complainant regarding demands of dowry. This fact has been admitted by ASI Krishna Devi in her deposition before the Court. Even the complainant had admitted that she had entered into a compromise with the accused in the carlier complaint made by her before Mahilla Cell, Bhiwani. After the day of compromise and the withdrawal of the aforesaid complaint, the only allegation left against the accused is the demand of dowry on 08.06.2012 by accused Parmod Singh and Ompal Singh from the father of the complainant in the house of the complainant. The complainant Rekha in her cross-examination at page No.4 submitted that her husband Parmod had gone to the house three times after marriage and all of the times the motive of his visit was to take her back to her matrimonial house. In her examination-in-chief, she nowhere deposed about any demand of money made on 08.06.2012. The father of the complainant has also not whispered anything about such demand on 08.06.2012 before him. Clearly, the allegations of the complainant against the accused are not well founded and the prosecution has totally

failed to prove the guilt of the accused beyond shadow of reasonable doubt.”

12. The aforesaid findings have been reiterated by learned Additional Sessions Judge, Bhiwani. Relevant findings given by learned Additional Sessions Judge, Bhiwani are as under:-

“19. No specific date regarding demand of dowry and specific date of payment of cash have mentioned in complaint Ex.PW1/A. Appellant in her complaint has alleged that she has informed her father telephonically regarding incident of 10.02.2012 upon which her father asked her father-in-law about that incident and her father also informed telephonically to SP, Rewari regarding her severe beatings given by respondents No.2 to 4 but no proof in this regard has placed on file by complainant that she informed telephonically to her father and in response her father asked to her father-in-law.

20. Appellant has mentioned that she remained admitted in Dr. Shiv Rattan Yadav Hospital, Rewari due to severe beatings given by respondents No. 2 to 4 but no proof regarding her admission in Dr. Shiv Rattan Yadav Hospital, Rewari has been placed on file.”

13. Besides the above, it has also come on record that the petitioner had previously also made a complaint (Ex.D2) before Mahila Cell, Bhiwani, in which also respondents No.2 to 4 had been exonerated.

14. Learned counsel for the petitioner is unable to dispute the above said findings and facts on record.

15. Nothing has been produced before this Court to controvert the above said findings.

16. In view of the above, I find no ground is made out to interfere in the impugned order dated 17.09.2016 passed by learned Judicial Magistrate, 1st Class, Bhiwani and judgment dated 19.07.2022

passed by learned Sessions Judge, Bhiwani. Present petition accordingly stands **dismissed**.

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

01.04.2024			(Nidhi Gupta)
Sunena			Judge
Whether speaking/reasoned		Yes/No	
Whether reportable		Yes/No	