

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

213

CRM-A-1171-2019 (O&M)
Date of Decision: 21.10.2024

Rajina	 Applicant
Versus	
State of Punjab and others	 Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Kanishk Swaroop, Advocate for the applicant.
Ms. Aakanksha Gupta, A.A.G., Punjab.

NIDHI GUPTA, J.

CRM-19509-2019

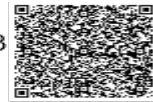
This is an application under Section 5 of the Limitation Act for condonation of delay of 141 days in filing the instant criminal application.

The only ground cited by the applicant is that the applicant was under impression that she had time to file the appeal.

Hence, no ground to condone the delay of 141 days in filing the instant criminal application is made out and the present application stands dismissed.

CRM-A-1171-2019

This is an application under Section 378(4) read with Section 482 Cr.P.C., seeking leave to file the present appeal against the judgment dated 08.10.2018 passed by the learned Judicial Magistrate 1st Class, Patiala, whereby the private respondents have been acquitted in FIR No. 17 dated



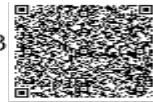
18.02.2014 registered under Sections 406, 498-A, 201 IPC at Police Station Women, Patiala.

2. Learned counsel for the applicant *inter alia* submits that vide impugned judgment dated 08.10.2018, the accused/respondents No.2 to 6 herein have been wrongly acquitted by the learned Judicial Magistrate 1st Class, Patiala in FIR No. 17 dated 18.02.2014 registered under Sections 406, 498-A, 201 IPC at Police Station Women, Patiala.

3. Learned counsel submits that in passing the impugned judgment, the learned Judicial Magistrate 1st Class has failed to take into account the version of the applicant/complainant wherein it is her specific stand that previously also one FIR No. 74 dated 01.09.2013 had been registered by her against the accused with the allegation that she was beaten up by the accused. It is submitted that as such the accused are habitual of beating the applicant; and therefore, their acquittal is wrong and contrary to the facts on record. Even the medical record of the applicant was proved as Ex.PW1/P and Ex.PW1/D. As such, offence under Section 498A IPC is clearly made out.

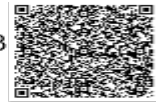
4. As regards offence under Section 406 IPC, it is submitted that the fact that dowry articles were recovered from the private respondents goes to show that the findings of the learned JMJC are patently perverse. It is contended that merely because the applicant was unable to prove specific entrustment, would not constitute sufficient ground to acquit the accused. It is accordingly prayed that the impugned judgment be set aside and respondents No. 2 to 6 be convicted and sentenced for commission of offence in the interest of justice.

5. No other argument is raised by learned counsel for the applicant.



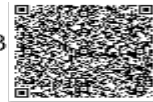
6. I have heard learned counsel for the applicant as also perused the case file in great detail.

7. Perusal of the record of the case shows that the respondent No.2 is the husband, respondent No.3 is the mother-in-law, respondent No.4 is the father-in-law, respondent No.5 is the brother-in-law/jeth and respondent No.6 is the sister-in-law/jethani of the applicant/complainant. The applicant was married to respondent No.2 on 16.01.2010 as per Muslim rites and ceremonies. Due to matrimonial discord, the parties have been living separately since 26.08.2013. The present FIR No. 17 came to be registered on 18.02.2014 (Ex.PW4/2) under Sections 406, 498-A, 201 IPC at Police Station Women, Patiala; with the allegations that at the time of marriage, the parents of the applicant gave dowry articles beyond their means. However, her in-laws were not happy with the dowry given to her by her parents. Her husband, father-in-law, mother-in-law, brother-in-law, sister-in-law (Jeth and Jethani) made demand for a Motorcycle. For the said demand, she was being harassed and maltreated by her in-laws, they even beat her up as she was unable to fulfil their demand. However, complainant kept on tolerating the behaviour of her in-laws. Several panchayats were convened but all in vain. A compromise was also affected in which her in-laws took responsibility that she will not be maltreated nor harassed. Her parents also got purchased a Motorcycle for her. However, later on, they started demanding a Car. She was then thrown out of her matrimonial home, after being beaten up. The complainant is now residing along-with her daughter with her parents. Earlier, an FIR No.74 dated 01.09.2013 had been got registered by the complainant against the accused persons for beating her up. Her husband is not taking care of her nor has come to take her back to the matrimonial home. Her Istridhan has also been



displaced by the accused persons. On the basis of the above said complaint of the applicant, inquiry was marked to Incharge Saang Kendra, Rajpura. In the enquiry, complainant was willing to rehabilitate in her matrimonial home. However, accused persons did not appear for getting their statements recorded. Thereafter, an FIR under Section 406, 498-A IPC was registered on the basis of enquiry report on 24.12.2014. Accused Imitiaz Ali was arrested, and the remaining accused persons also joined the investigation of the police. Thereafter, statements of witnesses under Section 161 Cr.P.C were recorded. Finally, after completion of investigation and other necessary formalities, challan under Section 173 Cr.P.C was presented in the Court against accused.

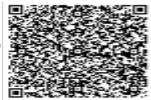
8. It is the pleaded case of the applicant that the list of dowry articles is on record as Ex.PW4/3 and recovery memo in respect of the said dowry articles is on record as Ex.PW3/1. It is the contention that the very recovery of dowry articles would go to show that offence under Section 406 IPC had been committed by the accused. However, it is the categorical finding in the impugned order that although the said documents are on record, however nothing has been stated by the complainant in respect of entrustment. Even no specific allegations have been made as to which dowry articles is entrusted to which accused; and as such it could not be proven that any dowry articles had ever been entrusted to the accused. Furthermore, it was a specific pleaded case of the accused that there had been no demand on the part of the applicant seeking return of the alleged istridhan. As such, there could have been, and was no refusal on the part of the accused to return istridhan. Even no such assertion has been made on behalf of the applicant that demand of return of istridhan was made by her to the accused. It was in this background,



the learned trial Court held that offence under Section 406 IPC could not be made out.

9. As regards offence under Section 498-A IPC, the main argument on behalf of the applicant is that previously also in respect of incident dated 26.08.2013, the applicant had registered an FIR No. 74 dated 01.09.2013 under Sections 323, 341, 149 IPC (Ex.PW1/N) which goes to show that accused side used to regularly beat her. However, the learned trial Court has categorically noticed in the impugned order that in the previous FIR No. 74 dated 01.09.2013, the quarrel was with regard to an incident where the respondents had allegedly thrown the clothes of the complainant from the terrace. As such, the assertion of the applicant that registration of the previous FIR proves that the accused were habitual of beating the complainant, is not substantiated. Further, the accused have already faced prosecution in respect of the said incident.

10. It is also to be noted that in the said FIR No. 74 dated 01.09.2013, there is no complaint made by the applicant regarding any dowry demand on the part of the accused. The present FIR has come to be registered barely a few months thereafter on 18.02.2014. In the present FIR as well, no specific incident of beating or dowry demand has been mentioned. Only vague and general allegations have been made regarding demand of dowry by the accused. Even no specific date has been mentioned on which the accused allegedly beat up the complainant. It was in this background, that the learned trial Court held that even allegation under Section 498A IPC has not been proved against the accused.



11. Learned counsel for the applicant is unable to dispute or controvert the above said findings of the learned trial Court.
12. In view of the same, present application is **dismissed** on the ground of delay as well as on merits.
13. Pending application, if any, also stands disposed of.

21.10.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No