

2025:PHHC:103352-DB



**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

321

CRA-D-362-DB-2005 (O&M)

Date of Decision: 08.08.2025

STATE OF HARYANA

... Appellant

VERSUS

PURUSHUTAM AND OTHERS

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

HON'BLE MR. JUSTICE H.S. GREWAL.

Present: Mr. Rajat Gautam, Addl. A.G., Haryana.

Ms. Manisha Rani, Advocate for Mr. R.N. Lohan,
for the respondents.

H.S. GREWAL, J.

The instant appeal is directed by the State of Haryana against the acquittal of five accused persons vide judgment dated 29.07.2004 passed by the Additional Sessions Judge, Jhajjar in case FIR No.465 dated 12.10.2000, registered under Sections 498-A, 406, 376 and 109 of IPC at Police Station Jhajjar.

2. The case of the prosecution is that an application was received from Meena Devi daughter of Rattan Singh in the office of S.P. Jhajjar in respect of demand of dowry and rape, wherein she has alleged that she was married to Purushutam Singh son of Kapoor Singh on 05.12.1999 and since her

husband was impotent, therefore, on 11.12.1999 at about 12.00 A.M. in the night, her brother-in-law (devar) Darshan raped her without her consent, but her husband agreed to it. Her in-laws told that they will marry her to Darshan and only due to this reason, she and her parents did not complain of the incident to the police. But later on, the accused persons put forth the conditions that in case she brought a scooter and one gold chain for each member of the family then she would be allowed to stay in the house and her status would be as wife of Purushutam, however, Darshan would be coming to her for procreation of children and that she would get the marriage of Darshan performed with her younger sister. Thereafter, the accused persons used to torture her on that account and also threatened her with dire consequences. Hence, she filed the complaint against the accused persons. On 16.10.2000, the complainant/prosecutrix was got medico-legally examined.

3. On the basis of said complaint, an FIR was registered and the investigation swung into motion. The Investigating Officer visited the spot, inspected the same and recorded the statement of the witnesses. He also prepared the scaled site plan and arrested the accused Darshan on 03.12.2000, while Rajender, Purushutam and Angoori were arrested on 04.12.2000. Accused Maya was arrested on 09.02.2001. After completion of investigation, challan was prepared and presented in the Court and upon finding *prima facie* case against the accused persons, charges under Section 498-A, 406, 376 and 109 of IPC were framed against the accused persons.

4. In order to prove its, case the prosecution examined 09 witnesses in all. Meena Devi, the complainant/prosecutrix appeared as PW1 and deposed in lines of her statement made before the investigating officer.

5. PW4 Rattan Singh, father of the complainant, also deposed about the demand of dowry being raised by the accused persons after 4-5 months of the marriage. He also admitted in his cross-examination that no demand of dowry was made at the time of marriage. He also stated that her daughter was offered fresh marriage with Darshan.

6. PW5 Daya Kaur, mother of prosecutrix/complainant has also deposed on the similar lines.

7. PW9 Sat Narain, SI deposed regarding the investigation conducted by him; the preparation of site plan; medico-legal examination of the complainant/prosecutrix and regarding the statements of witnesses recorded by him. Thereafter, he arrested Darshan on 03.12.2000, while Rajender, Purushutam and Angoori were arrested on 04.12.2000 and Maya was arrested on 09.02.2001 and thereafter, he prepared the challan and presented the same before the Illaqa Magistrate for commencement of trial.

8. All other witnesses were formal and have deposed about the corroborative link evidence. After closing of prosecution evidence, the statements of the accused persons under Section 313 of the Cr.P.C. were recorded, wherein the accused persons pleaded innocence and false implication.

9. Learned State Counsel submits that the trial Court has erred in passing the aforesaid judgment inasmuch as there was sufficient material supported by corroborative evidence to bring home the guilt of the accused persons. However, the learned trial Court has ignored the same and erred in acquitting the accused persons. The case of the prosecution is well established beyond shadow of all reasonable doubts and the accused persons are liable to be

held guilty and sentenced; and the impugned judgement of acquittal is liable to be set aside.

10. Learned counsel for the respondents-accused persons on the other hand, has vehemently contended that the impugned judgment passed by the trial Court is well reasoned and based on appreciation evidence and material brought on record. There is no error of law of fact in the said judgment and the same is liable to be upheld.

11. We have heard learned counsel for the parties and have carefully perused the material available on record.

12. The factual matrix involved in the present case is that since accused Purushutam could not consummate the marriage with her wife i.e. the complainant/prosecutrix on account of his physical impotency, she was allowed to get intimated with her brother-in-law (*devar*) Darshan who is the younger brother of Purushutam. This entire act was with the consent of the prosecutrix as well, who had no child from her husband. The act committed by Darshan was with her consent and that is why she never reported the matter to the police. The matter had been reported to the police after more than one year of the incident. It is quite unbelievable that she had no chance to report the matter to police. The respondents have produced the letter Ex.DA, which was written by the prosecutrix to Darshan, which indicates that they were in relationship.

13. Keeping in view the above entire evidence and after examining the same, we find that there is no infirmity, perversity or illegality in the impugned judgment passed by the trial Court acquitting the accused persons of the charges framed against them. Hence, the instant appeal filed by the State is hereby

dismissed and the impugned judgment dated 28.07.2004 passed by the trial Court is upheld.

14. All other misc. application(s), if any, also stand(s) disposed of accordingly.

(MANJARI NEHRU KAUL)
JUDGE

AUGUST 08, 2025.
Rajender

(H.S. GREWAL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*