

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Revision No.900 of 2005 (O&M)

Date of decision : 09.2.2010

Sudha

Petitioner

Versus

Narender Nagpal and others

Respondents

CORAM : HON'BLE MRS.JUSTICE SABINA

Present: Mr.Ashish Handa, Advocate for the petitioner. Mr.R.S.Sihota, Sr.Advocate with

Mr.B.S.Rana, Advocate for the respondents.

Sabina J.

Petitioner Sudha has filed this revision petition under Section 401 of the Code of Criminal Procedure ( in short 'Cr.P.C.') challenging the judgment dated 30.9.2004 passed by Judicial Magistrate 1st Class, Faridabad acquitting the respondents of the offence under Section 498-A, 406 of the Indian Penal Code ( in short 'IPC').

The brief facts of the case, as noticed by the trial Court in paras 2 to 3 of its judgment, are as under:-

"Brief facts of the prosecution case are that on 14.10.97 a written complaint made by Sudha was received by ASI Siri Bhagwan wherein it was stated that she was married to Narender Nagpal on 8.12.89 according to Hindu Rites and Rituals. Immediately after two months of the marriage, her husband started taunting her for bringing insufficient dowry. Her husband asked her to bring money for purchasing a car but knowing financial condition of her father, the complainant refused to oblige her husband. Thereafter, Narender Nagpal, husband of the complainant, Prem Kumari, mother-in-law and Shiv Parkash, father-in-law of the complainant started taunting her and beating her to pressurize her to bring money for the car and in the alternative to bring money which she had earned before marriage from her service. It was Crl.Revision No.900 of 2005 2

made clear to the complainant that if she did not bring the money, she would not be kept in her matrimonial house. When the complainant was unable to take taunts and beatings any more, she returned to her father's house. Her father got a Panchayat convened and with the intervention of the Panchayat, which included Shiv Lal Bhatia and Krishan Gopal Bhatia, the complainant returned to her matrimonial house. For a few days behaviour of the in laws and husband of the complainant towards the complainant was cordial. One day Anju,

sister-in-law of the complainant and Satish, her husband visited the matrimonial house of the complainant. Satish was under the influence of liquor at that time. He enquired from the father-in-law of the complainant whether complainant had brought the car, at which father-in-law of the complainant replied in negative. The complainant has alleged that from that day onwards she was again ill-treated and beaten. Thereafter, mother of the complainant visited her house and on hearing the entire incident from her daughter, she requested the mother-in-law of the complainant to send the complainant with her as the complainant was unhappy. Thereafter, father of the complainant enquired several times as to when they would come to take the complainant back to her matrimonial house but no one came from the side of her in-laws and instead informed them they should first arrange for the money and only then, they would take her back. Again several respectables were collected where Narender Nagpal, husband of the complainant apologized and took the complainant along with him. It is further stated that for a few days complainant was kept properly at her matrimonial house but subsequently when she used to go for her job, the mother-in-law of the complainant started locking the kitchen and room of the complainant. When complainant returned and demanded the keys, she used to abuse her and tell her that she did not bring anything from her father's house and was unnecessarily bothering them.

3. The complainant continued to tolerate taunts as she had two children to look after. It is stated that mother-in-law ill-treated her children as well and on 7.10.97 Anju, sister-in-law of the Crl.Revision No.900 of 2005 3

complainant and her husband Satish came to their house and enquired from her husband and in-laws as to why they had continued to let her live in the house and why was she not thrown out from the matrimonial house. It is alleged that on this her husband Narender Nagpal gave her severe beatings and her in-laws pushed her out from the house and told her that she should not return if she did not bring the car from her father's house. It was stated that her father had already given her following articles in dowry:

1. Colour T.V.(BPL), 2, Fridge, 3, Sofa, 4 Dining Table (with six Chairs), 5. Mixy, 6. Juicer, 7. Gas Kitchen, one Cylinder, 8. Dressing Table, 9. Inverter plus battery, 10. Sewing Machine, 11. Three Almirahs, 12. Washign Machine, 13, 10 Tola Gold, 14. Press, 15. Electric Hot case, 16. 19 pairs of ladies clothes, 17. 15 pair of Gents Clothes.

It was requested that necessary legal action be initiated against her husband, mother-in-law, father-in-law, sister-in-law and her husband Satish and it was also requested that dowry articles be restored to her. On the complaint, present case was registered. Preliminary investigation was initiated by ASI Siri Bhagwan. Statements of witnesses under Section 161 Cr.P.C. were recorded. Accused Narender Nagpal obtained anticipatory bail from Id.Sessions Judge. Dowry articles were recovered. Thereafter completion of other necessary formalities of investigation, report under Section 173 Cr.P.C was prepared by Inspector Javed Khan, SHO, P.S.Kotwali and challan was presented in the court."

After hearing learned counsel for the parties, I am of the opinion

that the instant petition is devoid of any merit and deserves dismissal.

The trial Court while dismissing the complaint has observed that

the respondent-Narender Nagpal had filed a petition for divorce under Hindu

Marriage Act, 1955. The said petition was decreed by the trial Court after Crl.Revision No.900 of 2005 4

contest by the complainant-Sudha and the marriage between the parties was

dissolved. The plea of the respondent that the conduct of the complainant was

cruel towards her husband was accepted.

Learned trial Court further observed that there was no particular evidence on record nor any independent corroboration was available on the record regarding any physical cruelty inflicted on the complainant by the accused. Hence, mere allegations of beatings were not sufficient to establish any physical cruelty meted out to the accused. Learned trial Court has further observed that the cruelty need not be only physical but could be mental also. The complainant however, failed to establish that she had lost her seniority in service as she was being taunted by the accused qua demand of dowry.

Learned trial Court further observed that the complainant had although taken the plea that she was given Rs.300/- as monthly allowance out of her salary but in her cross examination, she stated that her salary had always been deposited in her account maintained with State Bank of India. The complainant had failed to establish that she had been withdrawing her salary from her account every month. Learned trial Court has further observed that Narender Nagpal had remained admitted in Escorts Ltd. Medical Centre from 25.8.1993 to 28.8.1993 on account of alleged assault by Sunil, the brother of the complainant. The complainant had failed to examine her brother with a view to avoid his cross examination on this point. The expenses at the time of delivery of both the children were borne by Narender Nagpal. The trial Court further observed that the complainant had alleged that in the year 1997, her husband lost his job and demanded money for repayment of loan taken by him for purchase of Maruti car. The said demand cannot be termed as a dowry of demand. The learned trial Court has further observed that the allegations against the parents in law were vague. Moreover, the complainant admitted CrI.Revision No.900 of 2005 5 that two rooms had been got constructed by her parents in law on the first floor

and she was residing with her husband in the said rooms.

Learned trial Court further observed that demand of car as dowry has not been established as Narender Nagpal had purchased the car in the year 1997 by raising a loan. Learned trial Court further observed that admittedly the marriage of the complainant was performed by way of simple ceremony. The guests from the complainant side were more than double of the guests from the side of the accused. The learned trial Court further observed that accused Narender Nagpal had got a life insurance policy and had nominated the complainant his wife as a nominee.

Thus, the trial Court in the facts and circumstances of the present case rightly held that the complainant had failed to prove her case. The reasons given by the trial Court while acquitting the respondents are sound reasons and warrant no interference by this Court.

Dismissed.

[ Sabina ]

Judge

09.02.2010

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