

(1991) 01 P&H CK 0060

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 9641-M of 1989

Gurbax Singh and ors.

APPELLANT

Vs

State of Punjab and ors.

RESPONDENT

Date of Decision : 09-01-1991

Acts Referred:

Citation : (1991) 2 RCR(Criminal) 338

Hon'ble Judges : G.S.Chahal, J

Advocate : S.S. Bhatti, Sh. K.S. Ahluwalia, Advocates for appearing Parties

Judgement

G.S. Chahal, J.

1. Gurbax Singh and others, petitioners herein, have been summoned by Sh. A.S. Ghuman, Judicial Magistrate Ist Class, Kharar vide order dated 2381989, on the basis of a complaint brought by Smt. Naib Kaur. Naib Kaur complainant is the mother of Harvinder Kaur (deceased) who was married to Gurmit Singh accused on 1961988. It is alleged that Harvinder Kaur (deceased) was maltreated and was administered poison, leading to her death. The accusedpetitioners were tried for the offence under Section 304 of the Indian Penal Code and sentenced to rigorous imprisonment for seven years. The appeal against that order of conviction and sentence is pending in this Court. The complainant complains that she had given the dowry articles to the petitioners and their family members. The list is enumerated in paragraph 7 of the petition. The complainant claims that after the death of Harvinder Kaur, she is the lawful heir and entitled to recover the dowry articles according to law. The accusedpersons having refused to return the articles had, thus, committed an offence under Section 406 of the Indian Penal Code.

2. The learned counsel urges that the dowry articles, if any, which were received by Harvinder Kaur (deceased), were not in the nature of property inherited by her from her father and thus the succession to those articles will be governed by Section 15(1) of the Hindu Succession Act and according to the rules set out under Section 16 thereof. At any rate, it was a case of civil nature and the Civil

Court has to decide, who would be the heirs of Harvinder Kaur (deceased). The Magistrate was not competent to embark upon that enquiry. I find force in this contention of the learned counsel which is supported by the observations of M. M. Punchhi, J. (as his Lordship then was) in *Ajit Singh and others v. State of Punjab*, 1983 Chandigarh Criminal Cases (H.C.) 116 and H.S. Rai, J. in *Mangat Ram v. State of Haryana*, 1988(2) Recent Criminal Reports 349 and I agree with the view expressed therein. I hereby accept the criminal miscellaneous and quash the proceedings on the basis of the complaint filed by Smt. Naib Kaur.

JUDGMENT accordingly.