
(2013) 11 P&H CK 0077
In the Punjab And Haryana At Chandigarh
Case No : CRR No. 724 of 2013 (O and M)

Kusum Lata

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 26-11-2013

Acts Referred:

Citation : (2013) 11 P&H CK 0077

Hon'ble Judges : Rekha Mittal, J

Bench : Single Bench

Advocate : Ashit Malik, for the Appellant; Anupam Sharma, AAG, Haryana for State and Mr. A.P. Setia, Advocate for Respondent Nos. 2 to 4, for the Respondent

Final Decision : Dismissed

Judgement

Rekha Mittal, J.—The present petition has been directed against order dated 29.11.2012 passed by the Sessions Judge, Bhiwani whereby order dated 8.8.2011 (Annexure P-4) passed by Judicial Magistrate Ist Class, Bhiwani summoning the private respondents (respondent Nos. 2 to 4) as additional accused to face trial for offence under Sections 498-A, 406, 506 of the Indian Penal Code, 1860 (for short ""IPC"") has been set aside. Kusum Lata (petitioner herein) lodged FIR No. 331 dated 28.12.2009 for offence under Sections 498-A, 406, 506 IPC against her husband, father-in-law, mother-in-law and brothers-in-law namely Sandeep and Vikas raising allegations that articles of her stridhan were misappropriated and she was subject to torture, beatings and maltreatment on account of demand of a luxury car by her husband and his family members. After investigation, challan was presented against her husband and mother-in-law, whereas the remaining accused namely, Jagdish

Chander, Sandeep and Vikas were kept in column No. 2 of the report u/s 173 of the Code of Criminal Procedure, 1973 (for short "" the Code"")

as they were found innocent during investigation and inquiries conducted by the officers of the rank of Deputy Superintendent of Police. After

examination of the petitioner as a witness in the Court, the learned trial Magistrate vide order dated 8.8.2011 summoned Jagdish Chander, father-

in-law, Sandeep and Vikas, brothers-in-law of the petitioner in exercise of jurisdiction u/s 319 of the Code. Jagdish Chander and others impugned

order dated 8.8.2011 by way of revision which was allowed by the Sessions Judge, Bhiwani vide order dated 29.11.2012 impugned in the

present petition.

2. On 1.3.2013, this Court passed an order and notice of motion was issued qua Sandeep only.

3. Counsel for the petitioner would contend that the petitioner in her testimony before the trial Court has attributed specific role to accused

Sandeep, therefore, the Court in revision committed a grave error and illegality in accepting the revision filed by Sandeep. It is further submitted

that in the first information report lodged by the complainant, the same allegations were put forth as were reiterated by the petitioner in her

statement as a witness in the case.

4. Counsel for the contesting respondents, on the contrary, contends that the learned trial Magistrate committed a serious error in summoning

Jagdish Chander and others including Sandeep to face trial along with persons already before the Court without properly and correctly

appreciating the scope of interference u/s 319 of the Code. It is further submitted that the error committed by the trial Magistrate was rectified by

the Court in revision and the Court has given detailed reasoning to set aside order passed by the trial Court. It is further submitted that it was

noticed by the Court in revision that Kusum Lata petitioner had admitted during her cross-examination that she along with her husband Sanjay

were residing in a separate house and during investigation, the Investigating Officer found that it was a case of dispute between husband and wife.

The Court further took into consideration that Sandeep is working as a teacher and he was married in the year 2003, having two school going

children and they both were drawing handsome salary having separate card for

cooking gas as well as ration and their own vehicles.

5. I have heard counsel for the parties and perused the records.

6. The petitioner was married to Sanjay on 2.12.2000 and the present FIR against the husband and his family members was lodged in December

2009. A perusal of the first information report as well as statement of the petitioner in the Court, which is reproduction of averments set out in the

first information report, would reveal that the petitioner has levelled sweeping allegations against her husband, mother-in-law, father-in-law and

devars in regard to misappropriation of articles of her stridhan as well as committing cruelty in connection with demand of dowry. With regard to

specific role attributed to Sandeep, it is stated that on 1.5.2009 her husband Sanjay and devar Sandeep consumed liquor and came to her school

i.e. Government Senior Secondary School, Bhatgaon, District Sonapat and when she was on duty, started beating and abusing her. She was

forced to make a complaint to the police. On 3.5.2009, both of them admitted their fault in writing before the panchayat and the police but they did

not mend their behaviour and continue to harass and torture her for dowry. Another plea is that on 25.7.2009, she was beaten badly till late night

by her husband, father-in-law, mother-in-law and devars Sandeep and Vikas for getting their demand of luxury car and expensive furniture fulfilled

and then she was confined in a room.

7. A perusal of testimony of the petitioner would reveal that specific attribution to Sandeep is that he along with husband of the petitioner went to

her school and started beating and abusing her. There is nothing on record to suggest if the petitioner sustained any injury much less being subject

to medical examination. It is also not the plea of the petitioner that she was assaulted due to demand of dowry. She has not specifically stated who

gave her beatings and how. The allegations qua Sandeep in regard to occurrence dated 1.5.2009, in my considered opinion, do not constitute

sufficient ground to create reasonable prospect of Sandeep being convicted, in case put to trial. The Court in revision has rightly adverted itself to

the facts on record and examined it in the light of scope of exercise of jurisdiction u/s 319 of the Code. Counsel for the petitioner has failed to

convince this Court that the Court in revision has committed any error much less the impugned order suffering from perversity warranting

interference by this Court. For the reasons recorded hereinabove, finding no merit, the petition is dismissed. However, nothing stated in this order shall prejudice adjudication of culpability of the accused already facing trial.