

**IN THE COURT OF SHRI CHANDAN HANS, JUDICIAL MAGISTRATE
1ST CLASS, HOSHIARPUR
CNR NO.PBHO010001432018**

CIS No.2793/2013

Date of Institution: 20.03.2018

Date of decision: 27.09.2018

Shama Rani wife of Mohan Lal, daughter of Gurmit Ram, resident of Mohalla Rahimpur, P.S.Model Town Hoshiarpur.

..... Complainant

Versus

1. Mohan Lal, son of Tarsem Lal
2. Tarsem Lal son of Jagat Ram
3. Gurmaj Kaur wife of Tarsem Lal

All resident of House No. 37/12, Model House, Jalandhar City.

..... Accused

Complaint under Sections 182,500,506 read with Section 34 of IPC

Present: Complainant with counsel Sh. Surinder Saini Advocate
Accused on bail with counsel Shri M.P.Singh Advocate

JUDGMENT:-

1. The present complaint has been filed by the complainant against the accused persons for the alleged commission of an offence punishable under Sections 182,500,506 read with section 34 of IPC.

2. The brief facts as mentioned in the complaint are that complainant was married to Mohan Lal accused on 12.07.1998. Accused No.2 and 3 were parents of accused No.1. The accused started maltreating harassing, torturing and coercing the complainant for not bring sufficient dowry at that time of her marriage and ultimately she was shunted out from her matrimonial home on 25.07.1999 by the accused after giving severe beatings to her for not fulfilling their demand of more dowry. The parents of the complainant tried their best to rehabilitate the complainant but accused flatly refused to keep her. The complainant filed a criminal complaint against the accused under sections 406/498-A of IPC in November 2000 in the court of the Ld. Addl. Chief Judicial

Magistrate Hoshiarpur. The accused were summoned vide order dated 11.09.2002 by the Hon'ble Court. The accused appeared in the Court and faced trial. Accused Mohan Lal filed a totally false complaint as a counter blast against the complainant to S.S.P Hoshiarpur on 25.02.2004, wherein accused Mohan Lal in-connivanced with other accused had leveled false allegations against the complainant in order to put undue influence on her and to defame and to lower down her in estimation of the people F.I.R. was registered on the basis of complaint moved by the accused against the complainant. Accused Mohan Lal had leveled false allegations in his complaint dated 25.02.2004 intentionally and knowingly to defame in his complaint dated 25.02.2004 intentionally and knowingly to defame and lower down the complainant in the estimation of the people and to put undue influence on her. Accused Mohan Lal stated in his complaint "IS NE MERE NAL SHADI HON TON AJ TAK IH GAL CHUPA KE RAKHI KI UH PAHILAN VIAHI HOI HAI." "IS NE MERE NAL DHOKHA KIT HAI" Accused Mohan Lal and other accused in connivance with each other with their common intention to defame the complainant, used above said words in their statement recorded U/s 161 Cr.P.C. and also uttered these word in the presence of many people during the investigation of the case and during the trial of the case in the court. On the so many dates of hearing in the case all the accused used to utter abovesaid words in the presence of large number of people present outside the court intentionally and well knowing that those false imputations would defame and lower down the complainant in the estimation of the people. Accused Mohan Lal made his statement in open Court on 6.10.2009 in the Court of Mrs. Preeti Sahni PCS, Ld. Addl. Chief Judicial Magistrate Hoshiarpur and again repeated abovesaid false imputation against the complainant in the presence of many persons in the

Court including Rakesh Kumar, Ram Bhajan, Nirmal Dassa and Thakar Dass etc. When accused Mohan Lal came out of court, he again intentionally uttered the same words in the presence of large number of peoples standing in front of Court, to defame her. All the accused have leveled false imputations in writing and orally in the presence of general public. Intentionally and knowingly to defame the complainant and to harm her reputation and lower down her in the estimation of the people at large. Due to the allegations and imputations made by the accused, the respect and reputation of the complainant and her parents have been lower down and they have been defamed in the society. Now all the relatives and friends of the family of the complainant have started hating them. Complainant was acquitted vide Judgment dated 10.02.2010 by the Court of Mrs. Preeti Sahni PCS, Ld. Addl. Chief Judicial Magistrate Hoshiarpur in the case which was got registered on the basis of false allegations by the accused. Accused have miserably failed to produced any evidence against the complainant on the file to substantiate the charges framed against the complainant in that case. Hence, the present complaint has been filed by the complainant.

3. On the basis of the preliminary evidence, the accused Mohan Lal was summoned to face trial under Sections 500 of IPC.

4. The notice of accusation was framed U/s 500 of the IPC on dated 12.06.2018 in which he pleaded not guilty and claimed trial.

5. In the complainant evidence, the complainant stepped into witness box as CW-1 and examined Rajesh Kumar as CW-2, Ram Bhajan as CW-3 and Nirmal Dass as CW-4 and the same was closed by complainant on 13.09.2018.

6. Statements of accused under Section 313 Cr.P.C. was recorded in which the accused denied all the imputations against him and pleaded false

implication. The accused also pleaded that they have nothing to do with alleged occurrence.

7. In defence evidence, no evidence was adduced by the accused. Thereafter, the accused Mohan Lal closed the evidence on 27.09.2018.

8. I have heard the learned counsel for the complainant and learned defence counsel and have gone through the case file carefully.

9. It has been argued by the Ld. Counsel for the complainant that on the basis of testimony of the complainant, her brother and witnesses, who deposed about the fact that the accused had mis-appropriated the dowry articles entrusted upon them by the complainant, accused Mohan Lal stated in his complaint “IS NE MERE NAL SHADI HON TON AJ TAK IH GAL CHUPA KE RAKHI KI UH PAHILAN VIAHI HOI HAI” IS NE MERE NAL DHOKHA KIT HAI” to defame the complainant and they harassed the complainant on the pretext of demand for more dowry, it stands proved that the accused had committed the offence under Sections 182, 500, 506 read with 34 of the IPC and they must be accordingly convicted.

10. On the other hand, the Ld. Counsel for the accused has argued that the version of prosecution was full of loopholes and so the guilt of the accused was not established beyond reasonable doubt. No evidence of any cruelty is thereon on the record. Hence, a prayer for acquittal of the accused was made.

11. From the submissions made by the opposite counsels and the record, the following point is required to be determined:-

(A) Whether the complainant has been able to prove the guilt of the accused beyond all reasonable doubt?

12. The onus of proving this point of determination was on the complainant as it is a settled principle of law that in criminal law the prosecution

has to prove its case beyond reasonable doubt. In the present case, in order to drive home the imputations levelled on the accused, the complainant has relied upon the ocular testimony corroborated by the documentary evidence.

13. To prove the same, the complainant stepped into witness box as CW-1, wherein she reiterated the entire contents of the complaint in verbatim. She also brought on record the certified copy of summoning order under Section 406, 498-A of the IPC as Ex.CA, certified copy of application moved by Mohan Lal as Ex.C2, certified copy of statement of Mohan Lal as Ex.C3 and certified copy of judgment dated 10.02.2010 as Ex.C4.

14. CW-2, Rajesh Kumar, who was the brother of the complainant also reiterated the entire contents of the complaint. He also deposed that dowry articles were given at the time of marriage between the parties, but the accused were not satisfied with the amount of dowry and they used to harass and torture the complainant. As a result of which, the complainant was forced to leave the matrimonial home, but the dowry articles were mis-appropriated by the accused. Then complainant Shama Rani filed a criminal complaint against the accused U/s 406,498-A IPC against the accused in November 2000 in the Court of Ld. ACJM Hoshiarpur. Accused was summoned by the Court and they appeared in the Court to face trial. Due to this grudge accused Mohan Lal filed a complaint as a counter blast against Shama Rani to SSP Hoshiarpur on 25.02.2004, wherein the accused leveled false allegations against Shama Rani to defame her and to lower down her in the estimation of people. The above said complaint of Mohan Lal FIR was registered against Shama Rani. Mohan Lal leveled false allegation in his complaint intentionally and knowingly to defame Shama Rani and used these words in Punjabi “IS NE MERE NAL SHADI HON TON AJ TAK IH GAL CHUPA KE RAKHI KI UH PAHILAN VIAHI HOI HAI” IS NE

MERE NAL DHOKHA KIT HAI". But all these allegations were false. After registration of FIR accused used these words in various proceedings i.e. inquiry proceedings, police investigation. Accused also gave statement in the Court and uttered the same above said words in the open Court where many persons were present in the court including Rajesh Kumar, Nirmal Dass, Ram Bhajan and Thakur Dass etc. Even when the parties came out of the Court accused Mohan Lal again used the above words loudly in the presence of many persons. She was defamed in the society and her respect was deteriorated in the estimation of general public. The Hon'ble Court found all the allegations of Mohan Lal false therefore she was acquitted from that case vide judgment dated 10.02.2010. Accused Mohan Lal could not produce evidence to prove his allegations against Shama Rani therefore she was acquitted by the Court.

15. CW-3 Ram Bhajan, who deposed that he was know the parties personally. Complainant was married with Mohan Lal accused on 12.07.1998, but accused demanding more dowry and started maltreating harassing and torturing Shama Rani on account of less dowry. On 25.07.1999 accused gave swear bearings to Shama Rani and shunted out her from the matrimonial home but accused flatly refused to keep her. Then complainant Shama Rani filed a criminal complaint against the accused U/s 406,498-A IPC against the accused in November 2000 in the Court of Ld. ACJM Hoshiarpur. Accused was summoned by the Court and they appeared in the Court to face trial. Due to this grudge accused Mohan Lal filed a complaint as a counter blast against Shama Rani to SSP Hoshiarpur on 25.02.2004, wherein the accused leveled false allegations against Shama Rani to defame her and to lower down her in the estimation of people. The above said complaint of Mohan Lal FIR was registered against Shama Rani. Mohan Lal leveled false allegation in his

complaint intentionally and knowingly to defame Shama Rani and used these words in Punjabi “IS NE MERE NAL SHADI HON TON AJ TAK IH GAL CHUPA KE RAKHI KI UH PAHILAN VIAHI HOI HAI IS NE MERE NAL DHOKHA KIT HAI”. But all these allegations were false. After registration of FIR accused used these words in various proceedings i.e. inquiry proceedings, police investigation. Even when the parties came out of the Court accused Mohan Lal again used the above words loudly in the presence of many persons. She was defamed in the society and her respect was deteriorated in the estimation of general public. The Hon'ble Court found all the allegations of Mohan Lal false therefore she was acquitted from that case vide judgment dated 10.02.2010. Accused Mohan Lal could not produce evidence to prove his allegations against Shama Rani therefore she was acquitted by the Court. Even now people are not behaving with Shama Rani with due respect and she have been defame in the society by the allegations made by Mohan Lal against Shama Rani.

16. CW-4, Nirmal Dass, who was know the parties personally. Complainant was married with Mohan Lal accused on 12.07.1998, but accused demanding more dowry and started maltreating harassing and torturing Shama Rani on account of less dowry. In the year 1999 accused gave swear beating to Sharma Rani and shunted out her from the matrimonial home but accused flatly refused to keep her. Then Shama Rani filed a criminal complaint against the accused U/s 406, 498-A of the IPC against the accused in November, 2000 in the Court of Ld. ACJM Hoshiarpur. Accused was summoned by the Court and they appeared in the Court to face trial. Due to this grudge accused Mohan Lal filed a complaint as a counter blast against Shama Rani to SSP Hoshiarpur on 25.02.2004, wherein the accused leveled false allegations against Shama Rani to

defame her and to lower down her in the estimation of people. On the above complaint of Mohan Lal FIR was registered against Shama Rani. Mohan Lal had leveled false allegations in his complaint intentionally and knowingly to defame Shama Rani and used these words in Punjabi “IS NE MERE NAL SHADI HON TON AJ TAK IH GAL CHUPA KE RAKHI KI UH PAHILAN VIAHI HOI HAI IS NE MERE NAL DHOKHA KIT HAI” But all these allegations were false. After registration of FIR accused used these words in various proceedings i.e. inquiry proceedings, police investigation. Even when the parties came out of the Court accused Mohan Lal again used the above words loudly in the presence of many persons. She was defamed in the society and her respect was deteriorated in the estimation of general public. The Hon'ble Court found all the allegations of Mohan Lal false therefore she was acquitted from that case vide judgment dated 10.02.2010. Accused Mohan Lal could not produce evidence to prove his allegations against Shama Rani therefore she was acquitted by the Court. Even now people are not behaving with Shama Rani with due respect and she have been defame in the society by the allegations made by Mohan Lal against Shama Rani.

17. It was argued by Ld. Counsel for the complainant that on the basis of entire evidence above, the complainant has been able to prove the guilt of the accused beyond reasonable doubt.

18. Whereas, the counsel for the accused has argued that there were inconsistencies in the statements of all the witnesses which puts in doubt the entire version of the complainant, so a prayer for acquittal of the accused was made.

19. I have the rival contentions of both the counsels and have gone through the record of this case carefully.

20. In this present case the allegations of the complainant is that the accused Mohan Lal has defamed complainant by moving a false complaint and by narrating publicly that the complainant was already married before getting married with the present accused person.

21. But the Ld. Counsel for the accused pointed out the cross-examination of the complainant Shama Rani where she specifically admitted that she knew one Ashwani Kumar who's father name is Sadhu Ram and the said Ashwani Kumar filed petition under Section 9 of Hindu Marriage Act against the complainant Shama Rani in which Ashwani Kumar claimed that Shama Rani complainant was his wife and she has left his company without any reasonable and probable cause and this petition was filed prior to her marriage with Mohan Lal. Further the complainant Shama Rani specifically admitted that it is correct that the above said Ashwani Kumar also filed writ petition before Hon'ble Punjab and Haryana High Court stating that she was her wife and she was deliberately not residing with Ashwani Kumar. Further the complainant Shama Rani specifically admitted that it is correct that the above said Ashwani Kumar also got published newspaper stating that she was his wife and she was not residing with him.

22. Further the Ld. Counsel for the accused pointed out the cross-examination CW-2 Rajesh Kumar who also specifically admitted that he knew one Ashwani Kumar who filed petition under Section 9 of Hindu Marriage Act for restoration of conjugal right. Further he specifically admitted that the said Ashwani Kumar also filed a writ petition before the Hon'ble Punjab and Haryana High Court mentioning there that the parents of Shama Rani against their marriage and threatening Ashwani Kumar and are not sending Shama Rani to her matrimonial house. Further he specifically admitted that the above said

litigation were instituted prior to the marriage of Shama Rani with Mohan Lal.

23. The Ld. Counsel for the accused argued that in this present case the offence under Section 500 of the IPC to defame the complainant is not made out because from the perusal of the above stated cross-examination of the complainant as well as the complainant witnesses, it is well established that the accused Mohan Lal has well reason to believe this fact that the complainant Shama Rani was already married with the one person namely Ashwani Kumar. Hence, it cannot be said the words spoken by the accused Ashwani Kumar against the complainant Shama Rani regarding her first marriage is totally baseless. Further the Ld. Counsel for the accused argued that the complainant has filed this present complaint just to harass the complainant because the complainant in her cross examination specifically admitted that she had filed one another complaint against the accused Mohan Lal under Section 406, 498-A of the IPC in which the accused Mohan Lal has been acquitted. Hence the argument raised by Ld. counsel for the accused also tenable that the complainant has just filed this present complaint to harass the accused Mohan Lal.

24 Hence, the complainant has not been able to prove her version beyond reasonable doubt. As such, the accused Mohan Lal is acquitted of the charge framed against him under Sections 500 of IPC. File be consigned to the record room after due compliance.

Announced in open Court:
27.09.2018

(Chandan Hans), PCS,
Judicial Magistrate 1st Class,
Hoshiarpur/UID No.PB0508