

IN THE COURT OF SARIKA, JUDICIAL MAGISTRATE IST
CLASS, SAFIDON
(UID NO.HR0558)



Criminal Case No.103 of 2022
Date of Institution: 19.10.2022/31.5.2023
CNR No. HRJNB0002221/2022
CIS No. CHI/284/2022
Date of Decision: **23.10.2023**

State	Versus	1. Sarvesh wife of Nawab Singh @ Pappa 2. Aashish son of Nawab Singh @ Pappa Both accused persons residents of village Hasanpur, Gharaunda, Karnal
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...Accused persons

FIR No.249 dated 9.7.2022
U/s: 323/406/498-A/506/34 IPC.
Police Station:- Sadar Safidon.

Present: - Shri Narender Pal, learned APP for the State.
Accused persons namely Aashish and Sarvesh present in
person (**on bail**) represented by Shri K.S. Cheema, Advocate.

JUDGMENT:-

The above named accused persons have been sent up to face
trial for the commission of offences punishable under Sections
323/406/498-A/506/34 of Indian Penal Code, 1860 (hereinafter referred to
as IPC) by SHO, Police Station Sadar Safidon, District Jind.

Sarika, JMIC,
Safidon,23.10.2023

2. The present case was registered on the basis of complaint Ex. PW1/A given by complainant Sushma to Superintendent of Police, Jind to the effect that the marriage of complainant Sushma was solemnized with accused No. 1 on 26.5.2013 as per Hindu Rites and Rituals and sufficient amount was spent on the marriage of the complainant by her family members. Complainant further stated that after some time of marriage, accused No. 1 and his family members started taunting the complainant from bringing less articles in dowry and they also gave beatings to the complainant on several occasions. Complainant further stated that she was even turned out from the matrimonial home saying that in case, she returned without fulfilling the demands, she would be killed. Hence, it is prayed that an appropriate legal action be taken against the accused persons.

3. On the basis of this complaint, police proceedings were initiated, formal FIR was registered. Investigation was pressed into action. During investigation, offence punishable under Section 354-A IPC was deleted as same was not made out. Dowry articles were taken into police custody. Accused persons were arrested. Disclosure statement of accused was recorded. Medical of complainant was conducted. Thereafter, statements of witnesses under Section 161 Code of Criminal Procedure, 1973 (hereinafter referred to as Cr.P.C.) were recorded and after completion of all other formalities of investigation, challan under Section 173 Cr.P.C. was filed against the accused persons.

Sarika, JMIC,
Safidon, 23.10.2023

4. Complete copies of challan were supplied to the accused persons free of costs, as envisaged under Section 207 Cr.P.C. Statements of accused persons also recorded in this regard.

5. Thereafter, on the basis of report under Section 173 Cr.P.C., and other accompanying documents, charge under Sections 323/498-A/34 of Indian Penal Code, 1860 was framed against the above named accused persons vide order dated 7.2.2023 to which, accused persons had pleaded not guilty and claimed trial.

6. The prosecution in order to discharge the burden in the present case examined only one witness i.e. complainant Sushma.

7. **Sushma (complainant)** stepped into the witness box as **PW-1** in her duly sworn testimony, she did not support the prosecution case and confronted with portion 'A to A1' of Ex.PW1/A. On the request made by learned APP for the State, she was declared as hostile witness. In her cross-examination, she stated that she has admitted her signatures over statement Ex. PW1/A but thereafter self stated that police had obtained her signatures on some blank papers. She further denied the suggestion that she was deposing false.

8. Thereafter, Shri Immy Gandhi, learned APP for the State suffered a statement to the effect that taking into consideration the testimony of PW1, there was no chances of improvement in the prosecution case, therefore, he closed the prosecution evidence, vide his separate statement recorded on 18.10.2023.

9. Since the material witnesses, in the present case as PW-1 was already turned hostile, nothing incriminating was found against the accused persons therefore the recording of statements of accused persons under Section 313 Cr.P.C were dispensed with.

10. I have heard learned Assistant Public Prosecutor for the State and learned defence counsel for the accused persons and have perused the record of the case very carefully.

11. After hearing rival arguments advanced by learned APP for the State and learned counsel for accused persons, this court has come to the conclusion that the prosecution in the present case has miserably failed to discharge the burden of proving its case beyond shadow of all reasonable doubts against the above named accused persons. Further, in the present case, it is pertinent to mention here that PW1, who is complainant in the present case and also a star witness in this case, turns hostile because she did not identify the accused persons present in the court. Thus, it can be rightly said that when the complainant in present case turned as hostile or failed to identify the accused persons, there lies no doubt to convict the accused person because the huge benefit of doubt in such case goes in favour of accused persons.

12. Hence, in consonance with the foregoing discussion, I am of the considered view that prosecution has miserably failed to prove its case against the accused persons named above beyond reasonable doubt and in view of the same, accused persons namely **Aashish and Sarvesh** are

hereby **acquitted** of the charges levelled against them. Their bail bonds alongwith surety bonds would remain in force for next 6 months for proper compliance of Section 437 (A) Cr.P.C. Case property, if any, be disposed off after the expiry of period of appeal or revision. File be consigned to the record room after due compliance.

Announced in open court.

(Sarika)
Judicial Magistrate Ist Class,
Safidon, 23.10.2023
(UID No. HR-0558)

Note: All the five pages of this Judgment have been dictated, checked & signed by me.

(Sarika)
Judicial Magistrate Ist Class,
Safidon, 23.10.2023
(UID No. HR-0558)

Rakesh Kumar,
Stenographer Gr. II

Sarika, JMIC,
Safidon, 23.10.2023