

Copy of Judgment

State vs Sachin etc.

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CIS No. CHI-1813/2014.

CNR No. HRRHO3-004019-2014

IN THE COURT OF SH. SANJEEV KAJLA UID No. HR0357, JUDICIAL
MAGISTRATE IST CLASS, ROHTAK.

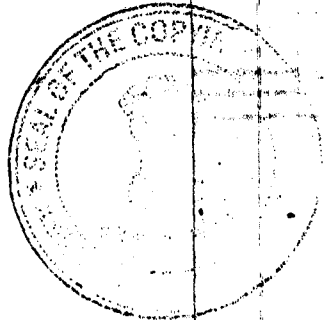
Criminal Case No. RBT 130 of 2016.

Date of Institution: 26.03.2016

Date of Decision: 11.06.2018.

CIS No. CHI-1813/2014.

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State

Vs.

1. Nand Kishore son of Jaggu Parbati
resident of Old Subji Mandi
Hariya Gate, Rohtak.
2. Nanki w/o Nand Kishore resident
of Old Subji Mandi Hariya Gate,
Rohtak.
3. Anju Jethni wife of Chander
Parkash Rajora resident of B-3/195
Sec.-6 Rohini Delhi.
4. Bimla w/o Sh. Fakir Chand Rajora
resident of B-3/195 Sector-6
Rohini, Delhi.
5. Chander Parkash Jeath son of
Fakir Chand Rajora resident of
B-3/195 Sector-6 Rohini Delhi.
6. Sachin son of Fakir Chand Rajora
resident of B-3/195 Sector-6
Rohini Delhi.

...Accused.

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FIR No. 69 dated 06.02.2014.

Under Section: 498-A & 406 IPC.

Police Station: City, Rohtak.

Present: Shri V.S.Rana, Public Prosecutor for the State, assisted by Sh. Rinku Jangra, counsel for the complainant.
Accused Nand Kishore, Nanki, Anju, Bimla, Chander Parkash and Sachin on bail, represented by Sh. B.M.Sharma, Advocate.

JUDGMENT

Accused named above were sent by the Station House officer, Police Station City, Rohtak for facing trial for commission of offence under Section 498-A & 406 IPC.

2. Brief facts of the prosecution case are that on 06.02.2013, an application numbered as 4337-PESI dated 10.12.2013 was received at Police Station through post from the office of the SP, Rohtak after conducting of enquiry by the Incharge, Women Cell, Rohtak. Complainant Monita had stated in her said complaint that her marriage was solemnized with Sachin Rajora son of Late Fakir Chand on 05.12.2012 as per Hindu Rites and Ceremonies. Her father had spent a sum of Rs. 19-20 lacs in her said marriage. One Hundai Eon Car worth Rs. 3.5 lacs was given in the said marriage of the complainant and gold weighing 20 tolas was also given. The husband of the complainant threw garland at her upon seeing the dowry articles. When complainant

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reached her matrimonial house on 06.12.2012, she was kept alone for the entire day and no food was provided to her. The complainant was taunted by her mother-in-law Bimla that she had not brought 25 tola gold and one big car in the dowry. On 7th December, complainant's husband Sachin, mother-in-law Bimla, Jeth Chander Parkash and sister-in-law Anju abused the complainant for bringing less dowry and she was asked to inform her parents that they must give the dowry articles which had not been given. The complainant visited her house, but she did not disclose about the said incident to anyone. On 09.12.2012, the complainant's Jeth Chander Parkash, husband Sachin and mother-in-law Bimla came to know that the complainant did not tell anything at her house about their demand. On 10.12.2012 at around 10.00 A.M., complainant's husband Sachin abused her in filthy language and started inflicting beatings to her. When complainant went to her mother-in-law, she (mother-in-law) told her that she shall be given divorce in case she did not bring requisite dowry articles. She further stated that there was no dearth of marriage proposals for her son. She was threatened that in case she did not comply with as asked, she along-with her family persons shall be done to death. On 01.01.2013, complainant called at her parental house for extending wishes on new year. The complainant's husband Sachin and mother-in-law Bimla inflicted severe beatings to her and twisted her hand. The complainant sustained a jerk in her hand and same got swelled. No medical treatment

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was provided to the complainant. The complainant was not allowed to move out of her house and she was not even taken to the doctor so that real state of affair might not get public. The complainant used to be provided only one meal and that too stale one. On 14.01.2013, complainant's husband Sachin inflicted severe beatings to her. The complainant's hands, legs and mouth were tied and she was inflicted beatings with *dandas* and *chopal*. The complainant's husband made physical relation with her forcefully against her wishes. The complainant got unconscious as her condition deteriorated. On 15.01.2013, complainant's husband Sachin and mother-in-law Bimla threatened her that she shall have to succumb to their demand else she along-with her family persons shall be done to death. On 16.04.2013, complainant's husband Sachin, mother-in-law, Jeth and Jethani stated that complainant had not brought anything despite lapse of sufficient period and they did not require her any more. All four of them inflicted severe beatings to her. Mother-in-law of complainant caught hold of the hands of the complainant, jeth opened the mouth of the complainant, husband caught hold of the legs of the complainant so that she could not offer any resistance and jethani Anju wife of Chander Parkash forcefully made her to swallow phenyl and thereafter, went out of the house after locking the same. The complainant got unconscious and she started having vomiting. She was not in a position to walk and speak, therefore, she kept lying there only. On 17.04.2013 in the night, complainant's

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jeth and *jethani* along-with mother-in-law and husband inflicted severe beatings to her. The complainant sustained a deep injury upon her eye, due to which same got swelled and blood started oozing out of the same. The complainant was kept without food and water in a room for three days and she was never taken to the hospital. When complainant's health improved slightly, her *jeth*, *jethani*, husband and mother-in-law threatened her that they shall bribe the police in case she made a complaint against them. Complainant's sister-in-law stated that she had good connections and salary, therefore, complainant could not cause any harm to her family. On 05.05.2013, *Bua*, *Fufa*, *Jeth*, *Jethani*, mother-in-law and husband asked the complainant to bring a sum of Rs.5 lacs from her parental house as she was going to give birth a child. She was asked to stay at her parental house in case said demand was not met. Complainant visited Rohtak on the function of her *nephew* and behaviour of the complainant's in-laws remained same when she returned to her matrimonial house. Pressure was built upon the complainant to bring dowry from her parental house. The in-laws of the complainant declined to give expenses of the studies of the complainant and also refused to give the documents of the complainant which were lying at her matrimonial house. The complainant called her younger brother and disclosed about the entire incident to police at Sector-7 Police Station.

Certificate of the complainant along-with some wearing apparel were given to the

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complainant upon the intervention of police. The complainant had been living at her parental house since 23.07.2013. None from the matrimonial house of the complainant came to meet her and no telephonic conversation was made with her by her in-laws. On 16.11.2013, 20-25 persons from the side of the in-laws of the complainant came and administered threat to the complainant. On 23.11.2013, when complainant was returning from college, two persons showed her picture to her and she was threatened that in case she did not comply with the demands of her in-laws, she shall be cut into pieces. The complainant subsequently came to know that her *Bua* Nanki and *Fufa* Nand Kishore were already having information about her husband and his family persons and they had deceitfully got her married. Complainant's husband Sachin had broken *Mangalsutra* of the complainant in front of her mother-in-law and *bua* Nanki and they had knowledge about the entire incident and demands which were raised from them. Based on said facts, an FIR bearing no. 69 dated 06.02.2014 was registered at P.S. City, Rohtak for commission of offence u/s 498-A and 406 IPC. Investigation was carried out. Statement of witnesses were recorded u/s 161 Cr.P.C. Accused were released on bail. After completion of investigation, challan was presented to Court for trial of accused for commission of offence u/s 498-A and 406 IPC.

Copy of challan was supplied to accused free of cost as envisaged under

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Section 207 of The Code of Criminal Procedure, 1973. Thereafter, accused were charged for commission of offence under section 498-A & 406 IPC, to which they pleaded not guilty and claimed trial.

4. Prosecution got examined nine prosecution witnesses in support of its case. PW1, namely, ASI Sukhbir; PW2, namely, Monita; PW3, namely, Manoj; PW4, namely, Subhash Chander; PW5, namely, Pushpa Devi; PW6, namely, SI Sunita; PW7, namely, Constable Satpal; PW8, namely ASI Roshan Lal and PW9 Constable Parvesh. Thereafter, Learned Public Prosecutor closed the prosecution evidence by vide his separate statement dated 05.11.2016.

5. Statement of accused was recorded under Section 313 Cr.P.C., wherein they alleged false implication.

6. Accused in their defence got examined DW1 Vikash. DW1 Vikash in his deposition brought the summoned record pertaining to accused Chander Parkash. He produced on record authority letter Ex.D1 in his name, monthly report Ex.D2, Bio-metric A-I report Ex.D3. He testified that accused Chander Parkash was deputed as accountant in the company and he was on duty from 4.30 P.M. to 1.30 A.M. on 16.4.2013. Said duty pertained to evening and night shift and six entries were made regarding in time and out time pertaining to said Chander Parkash. Thereafter,

counsel for the accused tendered documents Ex.D4 to Ex.D23 in defence evidence

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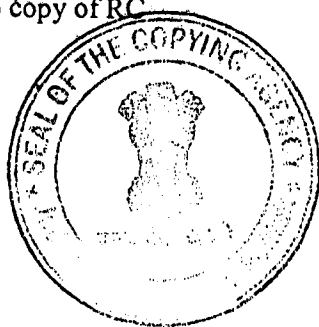
vide statement dated 22.3.2017, which are as follows:

- Ex.D4 Copy of Ladder of progress
- Ex.D5 Copy of academic record
- Ex.D6 Copy of report book for the session 2012-13
- Ex.D7 & Ex.D8 Copy of achievement record
- Ex.D9 Photo copy of identity card of Kapish son of Mr. Chander Parkash
- Ex.D10 Photo copy of identity card of Girish son of Mr. Chander Parkash
- Ex.D11 Photo copy of identity card of Girish son of Mr. Chander Parkash
- Ex.D12 Photo copy of driving licence of Chander Parkash.
- Ex.D13 Photo copy of identity card of Election Commission of India of Chander Parkash.
- Ex.D14 Photo copy of identity card of Anju Bala
- Ex.D15 Photo copy of water and sewerage bill
- Ex.D16 Photo copy of electricity bill
- Ex.D17 Photo copy of ration card
- Ex.D18 Firm of back side of ration card Ex.D17
- Ex.D19 Photo copy of RC of vehicle No.HR-13G-7718 issued by registering authority (MV)

Ex.D20

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Photo copy of RC



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- Ex.D21 Copy of delivery receipt
- Ex.D22 Copy of certificate of Anju issued by Head
Teacher Govt.Pry.School, Shankar Garden, Bahadurgarh
- Ex.D23 Copy of letter dated 8.4.2015 regarding supplying
information under RTI Act
- Ex.D24 Photograph

7. I have heard the Id. PP for the State as well as learned counsel for the accused and gone through the case file carefully.

Ld. PP for the State assisted by counsel for complainant argued that case of prosecution has been proved beyond all shadow of reasonable doubt by leading cogent and convincing evidence. It is submitted that PW2 complainant Monita @ Monika has duly supported the case of the prosecution in all material aspects. PW4 Subhash Chander and PW5 Pushpa Devi, both, also supported the case of the prosecution in their respective deposition and nothing material came to the fore during cross-examination of said witnesses so as to discredit the version put-forth by prosecution. It is argued that other prosecution witnesses also supported the case of the prosecution in their given capacity and case of prosecution has been proved beyond all shadow of reasonable doubt by the prosecution. With these submissions, it is prayed that all the accused are liable to be convicted for commission of offence that they have been charged with.

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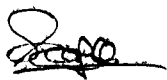
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On the other hand, learned counsel for the accused argued that the prosecution has failed to prove its case against the accused beyond all shadow of reasonable doubt by leading cogent and convincing evidence. It is argued that PW2 Monita @ Monika though supported the case of the prosecution in her deposition, but her testimony suffers from several material discrepancies. It is argued that false averments were made by complainant in her deposition regarding alleged inflictment of beatings upon her for and in connection with demand of dowry. It is submitted that family persons of the accused Sachin have been falsely roped in by the complainant who had no concern, whatsoever, with the matrimonial life of the complainant. It is further submitted that none of the accused except for accused Sachin resided with the complainant, therefore, allegations made by the complainant against accused are based on conjuncture and surmises. It is further argued that PW4 Subhash Chander and PW5 Pushpa Devi did not support the version of the complainant in their deposition in manner as deposed by the complainant in her deposition and their testimony also does not help the case of prosecution in any substantial manner. With these submissions, acquittal of accused has been prayed for.

8. Prosecution got examined nine prosecution witnesses in support of its case.



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PW1 ASI Sukhbir Singh, in his deposition testified that on 06.02.2014



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he was deputed as duty officer at Police Station City, Rohtak. One application no. 4337- PESI dated 10.12.2013 was received at police station from the SP Office, Rohtak, thereafter, case was registered and special report was sent to the concerned Illaqua Magistrate, concerned DSP and SP through Constable Parvesh Kumar. He testified that formal FIR Ex. PW1/A was registered and endorsement Ex. PW1/B was marked.

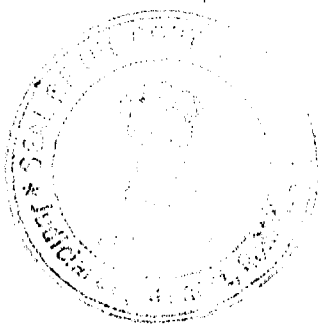
PW2 Monita, the complainant of the prosecution case, in her deposition supported the case of the prosecution by reiterating the averments as contained in complaint which she had presented before the police. She proved the complaint presented by her to police as Ex. PW2/A by identifying her signature thereupon at point-A. She also proved the list of gold jewellery Ex. PW2/B, list of electronic appliances Ex. PW2/C, list of utensils Ex. PW2/D, list of furniture items Ex. PW2/E, list of pagfara articles Ex. PW2/F, another list of articles of marriage Ex. PW2/G, list of articles of engagement Ex. PW2/H and statement Ex. PW2/J. Material averments made by said PW2 Monita in her deposition shall be dealt with and discussed at the time of discussion on merits of the case.

PW3 Manoj, in his deposition testified that on 05.05.2012, he had got married Monita daughter of Subhash Chnder as per Hindu Rites and Ceremonies.



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PW4 Subhash Chander, complainant's father, in his deposition supported



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the case of prosecution by reiterating the averments as contained in complaint which complainant had presented before police. Similarly, PW5 Pushpa, complainant's mother, in her deposition supported the case of the prosecution by deposing on the same lines as averments made by PW4 Subhash Chander. Material averments made by both these witnesses shall be dealt with and discussed at the time of discussion on merits of the case.

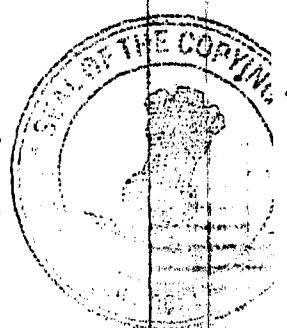
PW6 Sunita SI in her deposition testified that on 16.12.2013, she was posted as Incharge, Women Cell, Rohtak. One complaint pertaining to Monita daughter of Subhash was received by her, whereupon both the parties were called. Statement of the complainant Monita Ex.PW2/J and statement of Sachin Ex.PW6/A was recorded and she had prepared her inquiry report Ex.PW6/B, which was forwarded to the concerned DSP.

PW7 Constable Satpal, in his deposition testified that on 24.03.2014, he alongwith investigating officer of the case and father of the complainant Monita had reached Rohini. Accused Sachin was arrested and his personal search was conducted vide memo. PW6/A. Police remand of accused Sachin was obtained for one day. On 24.3.2014, accused Sahin suffered his confessional statement Ex.PW6/D to the effect that he could get effected the recovery of articles. Accused got effected recovery of one car, which was taken into police possession vide memo. Ex.PW6/E. Dowry

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articles got recovered at the instance of accused in consequence of confessional statement made by him were taken into police possession vide memo. Ex.PW6/F.

PW8 ASI Roshan Lal, Investigating Officer of the present case, in his deposition supported the case of the prosecution by describing the various steps of investigation carried out by him. In his deposition, he proved personal search memo. of the accused Nand Kishore etc. Ex.PW8/A and Ex.PW8/B and arrest memo. and personal search memo. Ex.PW8/C and Ex.PW6/C. He also proved various other documents as proved by other prosecution witnesses during the course of their deposition. He testified that challan under Section 173 Cr.P.C. was prepared by Kulbir SI/SHO on 26.6.2014 after completion of investigation.

PW9 Parvesh, in his deposition testified that on 06.02.2014, he had delivered three envelopes containing special report at concerned quarter.

9. It is well settled proposition of law that prosecution is required to prove its case against accused beyond all shadow of reasonable doubt by leading cogent and convincing evidence. Perusal of the record reveals that charge was framed against accused for commission of offence under section 498-A and 406 IPC. Briefly stated allegations against accused are that they committed cruelty upon complainant Monita @ Monika, daughter of Subhash Chander, for and in connection with demand for dowry. Further, said accused misappropriated the dowry articles which were entrusted

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to them at the time of marriage by converting the same to their use. Prosecution got examined nine prosecution witnesses, out of which testimony of PW2 Complainant Monita @ Monika is most relevant and material for the purpose of determining the guilt of accused. It is PW2 Monita @ Monika only who resided with accused at her matrimonial house after her marriage with accused Sachin. Other prosecution witnesses, namely, Subhash Chander (PW4) and Pushpa (PW5) must have received information regarding alleged cruel treatment met to PW2 Monita @ Monika at her matrimonial house during her stay with her in-laws from her only. In this background, now this Court proceeds to evaluate the testimony of PW2 Monita @ Monika in order to determine the guilt of accused.

PW2 Monita @ Monika supported the case of prosecution in her deposition by reiterating the averments as contained in complaint which she had presented to police. She proved complaint presented by her to police as Ex.PW2/A by identifying her signature thereupon at point-A. Now, the focal question for consideration before this Court is whether testimony of PW2 complainant Monita @ Monika is cogent, convincing and reliable enough so as to vouch safe the guilt of accused. Though PW2 complainant Monita @ Monika supported her version in her examination-in-chief by reiterating the averments contained in complaint presented by her to police, but a careful perusal of the averments made by her in her cross-

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examination and the manner in which she had deposed, reveals that her testimony suffers from several material discrepancies. Perusal of averments made by complainant Monita @ Monika in her examination-in-chief reveals that she has deposed in a very precise manner and she has divulged all the relevant dates on which alleged cruel treatment was met out to her by her-in-laws. However, when regard had to the averments made by PW2 complainant Monita @ Monika in her cross-examination, it becomes abundantly clear that she has pleaded ignorance to very basic and essential facts which she would have been able to furnish in her cross-examination. The ignorance pleaded by PW2 complainant Monita @ Monika in her cross-examination to certain questions which were put to her by the learned defence counsel during her cross-examination, has rendered the veracity of her version shrouded in doubt. She testified in her cross-examination that she could not recalled as to what was the salary of her father. She further averred that she could not tell as to whether salary of her father was Rs. 10,000/- or Rs. 20,000/-. She also pleaded ignorance to the fact as to her father had been in service for how much time. She pleaded ignorance to the fact as to what was the work of her father prior to his job. She pleaded ignorance to the fact as to since when her elder brother Naveen had been doing a private job. She pleaded ignorance to the fact as to how many persons had come in her marriage from the side of bride groom and how many persons had

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