

**HIGH COURT OF HIMACHAL PRADESH AT SHIMLA**  
**Cr.M.P.(M) No. 259 of 2006**

**Date of decision:28.6.2006**

<b>State of Himachal Pradesh</b>	<b>..Petitioner</b>
<b>Versus</b>	
<b>Pawan Kumar and others</b>	<b>..Respondents</b>
<b>Coram:</b> <b>The Hon'ble Mr.Justice Deepak Gupta, J.</b>	
<b>Whether approved for reporting<sup>1</sup>:</b>	<b>Yes/No</b>
<b>For the Petitioner: Mr.Vijay Thakur, Deputy Advocate General</b>	
<b>For the respondents:Mr. Sandeep Agnihotri, vice counsel</b>	

**Deepak Gupta, J.**

This petition for leave to appeal is directed against the judgment of learned JMIC, Nadaun in Criminal Case No. 80-II-2002, RBT No. 112-II-2003, decided on 14.1.2005 acquitting the accused of having committed the offence punishable under Section 498-A read with Section 34 I.PC.

Brief facts of the case are that complainant Luxmi Devi was married to accused Pawan Kumar on 14.7.1995. According to the complainant the accused started maltreating her on account of the fact that she had not brought sufficient dowry. It is further alleged that when she was pregnant, she was ill-treated by all the accused. Therefore, she was taken by her parents to their house. Accused Pawan Kumar came to the parental house and promised not to ill-treat her and took her to Ludhiana. However, the complainant apprehended danger to her life and rang up her parents on telephone and thereafter her father came to Ludhiana and took her back to parental house. According to the complainant the accused had beaten her up at the instance of her sister-in-law Sonu Devi and thereafter she

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<sup>1</sup> Whether the Local Papers are allowed to see the Judgment?

lodged a complaint in the police vide application PW-1/B on the basis of which FIR Ex.PW-3/A was registered. The police investigated the matter and accused was challaned and charged for having committed the offence punishable under Section 498-A read with Section 34 I.P.C. The accused pleaded not guilty and claimed trial.

The prosecution examined a number of witnesses in support of its case. Complainant Luxmi Devi appeared as PW-1. According to her she was beaten up by the accused on 17<sup>th</sup> May, 2001 and again on 17.12.2001 when she was pregnant. Thereafter her parents took her to her parental home. According to her when she delivered a baby boy at her parental home, a compromise had taken place between the parties and thereafter she again joined the company of her husband. Thereafter also she was treated with cruelty. In cross examination the complainant states that the complaint Ex.PW-1/B was written by her and presented to the police. A suggestion was put to her that she used to leave her matrimonial home without any rhyme or reason and without the permission of her in-laws which she denied.

PW-2 is Baldev Singh. According to him the accused persons used to beat up the complainant and, therefore, the complaint was lodged with the police. In cross examination he has admitted that he does not know how beatings to the complainant were given by the accused. He also states that no complaint with regard to the accused beating up the complainant was made to any person, Panchayat or any other

authority before lodging of the present complaint. In cross examination he admits that in his presence no beatings were given to the complainant. He also states that he was never present when the complainant was beaten up and his father PW-5 knows more facts about the case.

PW-4 Nirmala Devi is the sister of the complainant and her statement is to the similar effect.

PW-5 is Jagar Nath is the father of the complainant. According to him the accused used to beat up the complainant and when complainant told him about this fact he brought her back to her parental house. Thereafter the accused came to the parental house and a compromise was arrived at and the complainant was against sent to Ludhiana. He, however, received a telephone call from her from Ludhiana that she was being maltreated and, therefore, he again brought her back to parental house. According to him the accused used to beat her like an animal and she used to become unconscious. However, no medical evidence has been produced to show what were the injuries, if any, suffered by the complainant. The father has in his statement in court concocted a new story that when his daughter called him to Ludhiana, accused had demanded dowry, but the complainant does not say anything in this regard.

Though according to the prosecution right after a few days of the marriage the accused were giving beatings to the complainant, no complaint was ever lodged with the Panchayat or the police nor any medical was got done. The case

of the father that the accused used to demand dowry is not supported by the other prosecution witnesses, who have not uttered even a single word with regard to the demand of dowry. The complainant was emphatic in her statement that on 17.12.2001 she was beaten up and she informed her sister Nirmala Devi about this. However, Nirmala Devi while appearing as PW-4 has not stated a word in her statement that the complainant informed her that she was beaten up by the accused.

The learned trial court on the basis of the evidence has rightly come to the conclusion that the prosecution has failed to prove beyond reasonable doubt that the accused persons in furtherance of their common intention subject the complainant Luxmi Devi to physical and mental torture and treated her with cruelty. The evidence in this regard is extremely scanty and no reliance can be placed on this. I find no infirmity in the judgment of the learned trial court. The leave to appeal is dismissed. The petition stands disposed of.

June 28, 2006(K)

( Deepak Gupta ), Judge