

**223 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-A-1692-MA of 2015 (O&M)

Date of Decision: 07.09.2017.

Rajni

... Applicant-Appellant

Versus

State of Haryana and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Sanjiv Gupta, Advocate,
for the applicant-appellant.

JITENDRA CHAUHAN.J.(ORAL)

This is an application under Section 378(4) read with Section 482 Cr.P.C seeking special leave to appeal against the judgment of acquittal dated 04.08.2015 passed by Judicial Magistrate First Class, Bhiwani vide which respondent Nos. 2 to 5 were acquitted in complaint case under Sections 498-A, 406, 506 and 323 read with Section 34 IPC, Police Station Bawani Khera, Bhiwani.

Brief facts of the case as mentioned in the judgment passed by the trial Court are as under:-

“The present complaint has been filed by complainant against the accused No.1 to 7 in which she contended that on 18.11.2005 she was married with accused No.1 Satish in village Bawani Khera, District Bhiwani. Prior to the marriage, Rs.35,000/- were spent by her parents on the occasion of engagement

of the complainant with the accused No.1 Satish. In the marriage, parents of complainant spent Rs.5 lakhs. When the complainant came at the home of her husband, the accused were not satisfied with the dowry articles given by her parents to the accused. The mother in law of the complainant used to demand the golden necklace for her and her father in law demanded golden chain and cash amounting to Rs.1,50,000/- and her husband used to demand car from the complainant. Sister-in-law (Nanand) and her husband used to harass the complainant for money for purchasing the clothes. The sister in law of the complainant used to instigate her family members for the demand of dowry from her and she used to assault the complainant for demand of dowry. She complained to her parents but they consoled her and sent her to her in laws house. After one month of the marriage the accused expelled the complainant from their house. On the intervention of the Panchayat complainant was sent back to her in laws house by giving Rs.50,000/- to the accused but the accused continued to torture her for demand of dowry and used to assault with her. Hence the present

complaint.”

After holding trial, the learned trial Court observed that only general allegations were made by the complainant. No independent witness has been examined to prove the allegations made by the complainant. Even no person from the Panchayat was called as a witness to prove the factum of convening panchayat. The complainant has not examined any person in the presence of whom cash and other articles were entrusted by parents of the complainant.

Learned counsel for the applicant-appellant contends that there is ample, cogent and convincing evidence on record to prove the charge against the accused/respondents. The learned trial Court fell in error while discarding the truthful and credible evidence led by the complainant. The ingredients of offence under Sections 498-A and 406 IPC stand duly proved on record and the finding of acquittal recorded by the Court below deserves to be set aside.

Heard.

The evidence on record is indeed not sufficient to bring home the guilty to the respondents. The learned counsel for the applicant-appellant has failed to refer to any specific evidence with regard to entrustment of dowry to respondent Nos. 2 to 5. Mere allegations unsupported by evidence have been rightly discarded by the learned trial Court. The complainant-applicant did not examine any independent witness in support of her case. The present

complaint was filed after six years of marriage. No complaint to any authority prior thereto was made by the complainant. This being so, this Court finds itself in agreement with the view taken by the trial Court.

It is a settled law as has been held in *C. Antony Vs. K.G. Raghavan Nair*, 2002(4) RCR (Criminal) 750 that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

Consequently, the special leave to appeal is declined.

07.09.2017.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No