

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

CRM-A-1654-MA of 2014 (O&M)

Date of decision: 04.09.2017

Sarita

...Applicant

Versus

Rishipal and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: None for the applicant.

Mr. Deepender Singh, Advocate for respondents.

Jitendra Chauhan, J. (Oral)

By filing the present petition, under Section 378(4) of the Code of Criminal Procedure (for short 'Cr.P.C.'), the applicant has assailed judgment dated 11.06.2013, passed by Judicial Magistrate 1st Class, Faridabad, dismissing the complaint and acquitting the accused/respondents herein of the charges framed against them under Sections 406, 498-A and 506 read with Section 34 of the Indian Penal Code (for short 'IPC').

There is no representation on behalf of the applicant.

It has been averred in the petition that trial Court erred in dismissing the complaint without appreciating the fact that the applicant had fully proved her case beyond reasonable doubt by leading a cogent and convincing evidence. The trial Court erred in

ignoring the fact that respondents/accused gave severe beatings to the applicant on numerous occasion and threw her out of matrimonial home and was warned that she will not be allowed to enter the matrimonial home until she fulfill the demand of dowry raised by the respondents. There are specific allegations of demand of dowry, harassment and cruelty against the respondents.

Learned counsel for the respondents/accused states that there is an unexplained huge delay of 433 days in filing the present leave to appeal. Even, the appeal filed by the applicant against main accused i.e. husband was dismissed being time barred by this Court, vide order dated 25.05.2017. Therefore, he states that the petition also deserves to be dismissed on the same ground.

Heard.

As per the case of the applicant, respondents/accused treated the applicant with cruelty, gave beatings to her on account of demand of dowry and turned out of her matrimonial home. The marriage was solemnized on 15.02.2002. FIR No. 45 of 2004 was also got registered by the applicant against the accused/respondents, however, during the investigation, no incriminating evidence could be collected against them and they have been exonerated by the investigating agency. Thereafter, the applicant filed the present complaint whereby the accused were also acquitted of the charges. From the perusal of the case file, it emerges that there is nothing on

record to substantiate the allegations of applicant whereby it can be remotely presumed that the applicant was treated with cruelty and the accused/respondent were given beatings to the applicant. No medical evidence has been brought on record to corroborate the fact of beatings upon her. A bare perusal of the record further reveals that the present accused/respondent were residing separately from the applicant and her husband. Only general and vague allegations were levelled in the complaint. It deserves to be noticed that the applicant kept mum for more than a year and no plausible reasons have emerged on record to condone the huge delay of 433 days. The appeal filed against the husband has already been dismissed, therefore, this Court finds no merits in the present petition.

In the circumstances, the finding of acquittal recorded by the trial Court cannot be said to be perverse or contrary to the material on record. In fact there is no infirmity in the reasoning assigned by the trial Court for acquitting the accused/respondents. 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.

Accordingly, the special leave to appeal stands declined on account of delay as well as on merits.

Dismissed.

04.09.2017
sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No