

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT  
CHANDIGARH**

**CRM-A No.1890-MA of 2015 (O&M)**

**Date of Decision: January 19 , 2018.**

Balwinder Kaur @ Charanjit Kaur

..... APPLICANT/APPELLANT

**Versus**

Mukhtiar Singh and others

..... RESPONDENTS

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Tarun Singla, Advocate  
for the applicant/appellant.

\*\*\*\*\*

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

\*\*\*\*\*

**LISA GILL, J.**

Applicant/appellant seeks leave to appeal against judgment dated 22.12.2014 passed by the learned Chief Judicial Magistrate, Fazilka whereby the respondents have been acquitted of the charges against them in a complaint filed by the applicant/appellant under Sections 406/498A/120B IPC.

Brief facts necessary for adjudication of this case are that a complaint under Sections 406/498A/120B IPC was filed by the applicant. It was averred that her marriage was solemnized with respondent No.1 – Mukhtiar Singh on 21.10.2002. It was averred that her husband (respondent No.1) and

parents-in-law (respondents No.2 and 3) as well as her two brothers-in-law Sukhdev Singh and Balbir Singh (not proceeded against) ill-treated her on the pretext of bringing insufficient dowry. All the respondents were stated to be entrusted with certain articles as detailed in the complaint. All of them started demanding ₹2,00,000/- in cash. Parents of the complainant gave ₹70,000/-. However, all the abovesaid accused again started ill-treating her and ultimately about one year and eight months prior to the filing of the abovesaid complaint i.e. 17.07.2010, she was allegedly thrown out of the matrimonial home due to non-fulfillment of their demand of ₹2,00,000/-. Panchayats were called for rehabilitating the applicant, but in vain. The accused did not even return the dowry articles. The matter was reported to the concerned police authorities, but no action was taken. Thus, the applicant was constrained to file the present complaint.

The complainant examined herself as CW1, her father Kamal Kapoor Singh as CW2 and Fauja Singh as CW3 in preliminary evidence. Respondents No.1 to 3 were summoned to face trial under Sections 406/498A read with Section 34 IPC. The complaint against remaining accused was dismissed on 24.08.2012. The complainant as well as her father, Kamal Kapoor Singh stepped into the witness box as CW1 and CW2 in the pre-charge evidence. Charge against respondents No.1, 2 and 3 were framed under Sections 406/498A read with Section 34 IPC, to which they pleaded not guilty and claimed trial. The complainant and her father were again examined. In the statement under Section 313 Cr.P.C. all the accused denied the incriminating evidence put to them and claimed false implication and innocence. No evidence was led in

defence.

The learned trial court on considering the evidence on record, facts and circumstances of the case concluded that the complainant has failed to prove her case against the accused beyond reasonable doubt. It was observed that the specific details regarding harassment, ill-treatment and entrustment of the dowry articles could not be proved. The complainant also failed to prove the allegations of cruelty meted out to her by the accused on account of bringing insufficient dowry. Accordingly, respondents No.1 to 3 were acquitted of the charges against them vide judgment dated 22.12.2014 passed by the learned Chief Judicial Magistrate, Fazilka. Aggrieved therefrom, the applicant/complainant seeks leave to appeal against the said judgment.

Learned counsel for the applicant/complainant argues that the applicant was thrown out of the matrimonial home in the year 2007 on account of bringing insufficient dowry. Two children were born out of the wedlock. The learned trial court has not appreciated the specific evidence on record in the shape of the clear and cogent oral testimony of the complainant as well as her father. The absence of the specific dates or time at which the incidents regarding ill-treatment and cruelty on the part of the respondents, cannot be held against the applicant. Moreover, it is not expected of any reasonable person to have retained the bills regarding the dowry articles for all these long years. Similarly, non-examination of any of the Panchayat members cannot detract from the complainant's case. It is thus submitted that impugned judgment dated 22.12.2014 passed by the learned Chief Judicial Magistrate, Fazilka be set aside and the present application/appeal be allowed, consequently convicting

respondents No.1 to 3 of the offences as charged.

I have heard learned counsel for the applicant/appellant and have gone through the file with his assistance.

There is no dispute regarding the factum of marriage of the applicant with respondent No.1 on 21.10.2002 as well as two children being born out of this wedlock. It is further not in dispute that both the children are being looked after and maintained by respondent No.1. There is nothing on record to indicate that any complaint or representation was ever submitted before the police authorities in respect to the allegations of ill-treatment at the hands of the present respondents. The complainant or her father have not given any details in the shape of specific time, date or even month when the alleged ill-treatment was meted out to the complainant. None of the members of the alleged Panchayats which were convened to resolve the dispute have been examined. The complainant in her testimony has specifically admitted that her real sister was married with the complainant's brother-in-law (Devar) Jaswinder Singh on the same day of her marriage. The complainant's sister is admittedly living with her husband peacefully. It has been rightly held by the learned trial court that in such a situation it is difficult to countenance the allegations raised by the complainant, particularly when her real sister has never raised any such allegation against her in-laws. It is highly improbable that one of the sisters would be singled out for the demand of dowry. Photocopies of the bills (Mark A to C) have been rightly ignored by the learned trial court in the facts and circumstances of the case. A perusal of the file reveals that the complainant has indeed failed to prove her case against respondents No.1 to 3 beyond reasonable doubt.

No other argument has been raised.

Acquittal of the accused is not to be interfered with lightly and merely because another view may be possible. The Hon'ble Supreme Court in **Mahamad Khan Nathekhan v. State of Gujarat (2014) 14 SCC 589** while reiterating the basic principles has specifically held that in case of acquittal there is a double presumption of innocence in favour of the accused as it stands reinforced, reaffirmed and strengthened by acquittal, by the trial court. Learned counsel for the applicant is unable to point out any substantial or compelling reasons which warrant interference by this Court with the impugned judgment.

There is no perversity, infirmity or illegality in impugned judgment dated 22.12.2014 passed by the learned Chief Judicial Magistrate, Fazilka which calls for any interference by this Court. Accordingly, leave to appeal is declined.

CRM 38403 of 2015

There is a delay of 271 days in filing of the application/appeal on the ground that an appeal was earlier filed before the learned Additional Sessions Judge, Fazilka against the impugned judgment. The same was however withdrawn in view of the Full Bench judgment of this High Court in **M/s TATA Steel Ltd. v. M/s Atma Atube Products Ltd., 2013(2) RCR (Criminal) 1005**. As the matter has been decided on merits, the present application for condonation of delay is rendered academic.

( **LISA GILL** )  
**JUDGE**

January 19 , 2018.  
'om'

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No