

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

Sr. No.126

CRM-M-23873-2022

Date of decision: 05.07.2022

Rekha

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Gaurav Gaur, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana.

* * *

DEEPAK SIBAL, J. (Oral)

Through the present petition filed under Section 482 Cr.P.C., the petitioner seeks quashing of order dated 22.04.2022 passed by the Additional Sessions Judge, Bhiwani (for short – the Appellate Court) through which an application filed by the petitioner to place on record additional evidence in her appeal was dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that on a complaint filed by the petitioner the police lodged a FIR against respondents No.2 to 4 under Sections 498-A, 406, 323 read with Section 34 IPC. Thereafter, investigation was conducted resulting in filing of a report by the police under Section 173 Cr.P.C. on the basis whereof charges were framed against respondents No.2 to 4 to face trial under the aforesaid Sections of the IPC. In the trial which ensued respondents no.2 to 4 were acquitted against which the petitioner filed an appeal. In such appeal, an application was filed by

the petitioner under Section 391 Cr.P.C. to place on record additional evidence in the form of medical record and invoice of a car bearing temporary registration No.HR-99KFMP4332 (permanent registration No.HR-19F-8758). Such an application was filed because the Trial Court had inter-alia acquitted respondents No.2 to 4 for lack of medical evidence with regard to the allegations of giving of beatings by respondents No.2 to 4 to the petitioner as also for the reason that no proof of ownership of the alleged entrustment of dowry articles by the petitioner/her father to respondents No.2 to 4 had been produced. Through the impugned order, the Appellate Court has rejected the petitioner's application for additional evidence.

Learned counsel for the petitioner fairly contends that so far as the medical record which was sought to be placed on the record by the petitioner as additional evidence is concerned, the same would not have much bearing to the petitioner's appeal on its merits. However, the invoice of the Car in question would go a long way to prove its ownership as also its entrustment by the petitioner/her father to respondents No.2 to 4.

The FIR in question was lodged in the year 2012. After investigation, on 19.02.2013 the police filed its report before the competent Court under Section 173 Cr.P.C. Thereafter, charges were framed against respondents No.2 to 4 and they faced trial for over 04 years. The invoice in question which is dated 31.10.2011 was very much in the petitioner's knowledge but was not produced by the petitioner/her father before the police. During the course of the trial of respondents No.2 to 4, for over 04 years, the prosecution also did not make any endeavour to place such document. Even at the appellate stage, in the appeal filed in the year 2016,

the petitioner filed the application to place on record additional evidence only in the year 2021.

The afore delay remains unexplained. It is also clear that the step now sought to be taken by the petitioner was to fill up the lacuna pointed out by the Trial Court in its judgment acquitted respondents No.2 to 4. Further, the evidence which is now sought to be produced is not of such a nature without which the Appellate Court would be precluded from passing its judgment.

In view of the above as also in the light of the observations made in the impugned order by the Appellate Court that the car in question has already been identified by the petitioner and that it had been taken on superdari by the petitioner's father, no interference is warranted in the impugned order.

Dismissed.

July 05, 2022

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(DEEPAK SIBAL)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No