

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-275-2024 (O&M)
Date of Decision: April 15, 2024

SMT DALJEET KAUR

...Applicant-Appellant

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Saksham Dudeja, Advocate along with
Mr. Sanchit Malik, Advocate for
Ms. Rahish Pahwa, Advocate for the applicant-appellant.

HARPREET SINGH BRAR, J. (ORAL)

CRM-8101-2024

This is an application under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 46 days in filing the accompanying application under Section 378(3) of Cr.P.C..

For the reasons mentioned in the application seeking condonation of delay, the same is allowed and the delay of 46 days in filing the aforesaid application is condoned.

CRM-A-275-2024

1. This instant application under Section 378(3) Cr.P.C. is preferred against the judgement of acquittal dated 10.08.2022 passed by learned Additional Sessions Judge, Ludhiana in complaint case No. COMI/9/2015 dated 17.10.2023 filed under Sections 464, 467, 468, 494, 498A, 120B, 34 of IPC, whereby, respondent no.2 was acquitted of the charges framed against him.
2. The facts, in brief, are that marriage between the petitioner and respondent no.2 was solemnized on 20.10.2001 as per Sikh rites. After marriage, both of them cohabitated as husband and wife. At the time of marriage, sufficient dowry was given by the parents of the petitioner to respondent no.2 and his family

and Rs.3,00,000/- was also spent by them on the marriage ceremonies. Soon after marriage, the petitioner was subjected to cruelty for more dowry but the petitioner remained silent in order to save her marriage. Later on, respondent no.2 started threatening the petitioner with divorce. Being a joint family, the petitioner was subjected to maltreatment at the hands of the other family members as well. Respondent no.2 also neglected his children. Respondent no.2 being an army personnel, subsequently refused to visit the matrimonial house at all even during his vacations. During that time, other family members of his family started harassing the petitioner in order to make her to leave the matrimonial house. Then, in the month of December, 2017, the petitioner was turned out of the matrimonial house by respondent no.2 and his family members but somehow she returned later. On 06.09.2008, the father-in-law and mother-in-law of the petitioner started pressurizing her to agree for a divorce with mutual consent and upon refusal, the petitioner was beaten mercilessly and thrown out of the matrimonial house along with her luggage. Then the petitioner moved a complaint to concerned Army Headquarters and subsequently, maintenance was granted to the petitioner and the children, after which, respondent no.2 agreed to allow the petitioner to reside in the matrimonial house. But the intentions of respondent no.2 did not turn and he along with his family members even tried to kill her. One of the family members even tried to forcibly make physical relations with her and even tried to outrage her modesty. A Panchayat was convened where the said matter was resolved. On 23.08.2012, respondent no.2 married his paramour during the subsistence of his marriage with the petitioner and out of the said marriage, a female child was born. During the inquiry qua the application moved by the petitioner to the concerned police, respondent no.2 himself produced his marriage certificate issued by Gurudwara Shri Guru Nanak Sat Sang Sabha but later changed his stance and in collusion with his second wife Mandeep Kaur, got

Sahib on basis of a false statement in their self-attested affidavits. The aforesaid accused also got prepared a false birth certificate of their child in which the name of the father was changed. The petitioner moved an application to the concerned police but due to their inaction, she filed the private complaint (supra). In the complaint case (supra) only respondent no.2 was summoned by the learned trial Court and charged for the offence punishable under Section 498A of IPC but ultimately, acquitted of the charges framed against him in the present case. Aggrieved, the petitioner has approached this Court by way of the present petition.

3. Having heard the learned counsel for the applicant and after perusing the record with his able assistance, it transpires from the examination-in-chief of the petitioner that allegations levelled by her against respondent no.2 lack specificity as far as dowry demand or domestic violence is concerned. The testimony of the petitioner is devoid of any specific date and further admitted in her cross-examination that she is unable to produce any medical evidence regarding the alleged beatings given to her by her husband. The petitioner further admitted that after inquiry upon the application moved by her to SSP, Khanna, no case could be made out against respondent no.2. Interestingly, a perusal of the record further shows that the petitioner herself admitted in her cross-examination that she had never met respondent no.2 after the year 2007 and moved a complaint in 2013. She further admitted that respondent no.2 never beat her or inflicted any injury upon her and paid the maintenance granted to her by the Army Department till the month of May, 2023. All of the aforesaid facts clubbed together are sufficient for this Court to affirm the order under challenge in the present petition.

4. Furthermore, the power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled

innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. **(See H.D. Sundara and others Vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram v. State of H.P., 1973 (2) SCC 808 and Chandrappa and others v. State of Karnataka, (2007) 4 SCC 415).** A Division bench of this Court in the judgment passed in **State of Haryana Vs. Ankit and others CRM-A No.3 of 2022 decided on 06.07.2023** has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant-appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application and hence, the leave to appeal is denied.

(HARPREET SINGH BRAR)
JUDGE

15.04.2024
Ajay Goswami

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>