



CRM-A-236-2023 (O&M)

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219 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARHCRM-A-236-2023 (O&M)
Date of Decision: 23.09.2024

SONIA KHATRI

...Applicant

Versus

VISHAL KUMAR AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Brijender Kaushik, Advocate
for the applicant.

Harpreet Singh Brar, J. (Oral)

1. The present application is preferred under Section 378(4) of the Cr.P.C. against the judgment of acquittal dated 29.10.2022 passed by learned Sub Divisional Judicial Magistrate, Rajpura in criminal complaint bearing No. COMI/522/2013 dated 24.09.2010 filed under Sections 406 and 498-A of Indian Penal Code.

2. Brief, facts of the complaint are that the marriage between the applicant and Vineet Kumar was solemnised on 06.03.2006 in accordance with Hindu rites and rituals. Soon after the marriage, the accused i.e. in-laws of the applicant sold their house situated in Kurukshetra and started maltreating her in lieu of inadequate dowry. The accused persons also started making demands of Rs. 20,00,000/- from the applicant to purchase another house in Kurukshetra. The applicant was repeatedly abused for her failure to meet their demands.

3. Having heard the learned counsel for the applicant and after perusing the record of the case with his able assistance, it transpires that on 07.01.2007, applicant's family members came to her matrimonial home to see her baby. The

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sister and parents of the applicant were beaten up by respondent No.1 and Vineet Kumar. CW1- Ashok Kumar stated that he called the police on 100 and ultimately, a compromise was affected. However, in his cross-examination, he admitted that no injury was caused to any person in his presence. Further, CW1- Ashok Kumar did not show up for his cross-examination. Therefore, his testimony cannot be read into evidence. Moreover, the compromise was signed by wife of CW1-Ashok Kumar namely Sunita Rani as a witness, who has not been examined as witness. Further still, no medical evidence or police complaint has been brought on record to corroborate the alleged scuffle. The applicant has placed on record OPD slips from Neelam Hospital but the same correspond to 09.01.2007 which begs the conclusion that the applicant did not get herself medically examined on 07.01.2007.

4. Further, respondent No.1 is the brother-in-law of the applicant, works at the HDFC Bank in Karnal while his wife-respondent No.2 is a school teacher in DAV School, Kurkshetra. The respondents-accused are working officials and their interference in the matrimonial life of the applicant seems unlikely. Moreover, no specific allegations have been levied against them. The prosecution has also failed to establish entrustment of dowry articles or *stridhan* to the respondents. Therefore, this Court is of the considered opinion that the prosecution has failed to prove its case beyond reasonable doubt.

5. 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 law that where two views are possible and out of the two, one points towards the 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** passed 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.

6. 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.

7 Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

23.09.2024
Ajay Goswami

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