



**216-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-A-1570-MA-2016
Date of decision: 24.07.2024

Baljinder Kaur

...Applicant/Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ramesh Chand Sharma, Advocate
for the appellant.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J.

CRM-27287-2016

The present application is preferred under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 28 days in filing the application under Section 378(4) of Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.').

For the reasons mentioned in the present application, the same is allowed and the delay of 28 days in filing the application under Section 378(4) Cr.P.C. is hereby condoned.

CRM-A-1570-MA-2017

1. The present application under Section 378(4) Cr.P.C. is preferred against judgment dated 24.05.2016 passed by the learned Additional Sessions Judge, Hoshiarpur whereby the judgment of conviction dated 14.10.2013 passed by learned Sub Divisional Judicial Magistrate, Mukerian, was set aside and respondents No.2 to 4 were acquitted of the charges framed against them.



2. Briefly, the facts are that the marriage between the appellant and Surjit Singh, son of respondent No.2 and 3, was solemnised in April 2004 and one female child was born out of the said wedlock. However, a few days into the marriage, the in laws of the appellant began harassing her for not bringing adequate dowry. The parents of the appellants would occasionally give her Rs. 20,000/- to Rs. 30,000/- and other dowry articles to maintain peace at her matrimonial home. Despite this, the appellant was turned out of the matrimonial home multiple times in lieu of increased dowry demands. The family members of Surjit Singh instigated him to kill the appellant and often proclaimed that they would remarry him. The accused, in connivance with each other, demanded a car and Rs. 5,00,000/- or a motorcycle from the appellant. On her refusal, Surjit Singh thrashed the appellant and respondent No.2 caught her from her hair and threw her on the ground while respondent No.4 gave her fist and kick blows. Yet again, on 23.03.2008, the same demand was made and the appellant was mercilessly beaten on her refusal to comply. The accused pressurized her to divorce Surjit Singh and turned her out of the matrimonial home.

3. Having heard the learned counsel for the appellant and perused the record of the case with his able assistance, it transpires that the FIR(supra) was lodged in the year 2008, while the marriage between the parties was solemnized in the year 2004. No explanation is forthcoming on part of the prosecution to explain the said delay. Admittedly, the parents of Surjit Singh- respondents No.2 and 3, started living separately after his marriage. Moreover, respondent No.2 had disinherited Surjit Singh and an announcement to this effect was published in the newspaper. It also appears that vague allegations of severe



beating have been made against the accused, however, no medical evidence is available to corroborate the same.

4. Additionally, the version put forward by the appellant in FIR(supra) does not corroborate her deposition before the learned trial Court. While in the compliant, the appellant mentioned that a car was demanded by the accused but the same does not find a mention in her testimony. In her deposition, the appellant also added that accused Kulbir Singh asked the other accused to pour oil on her, while the same does not find mention in the FIR(supra). Further, no month or year of the incidents of violence has been mentioned by the appellant. Finally, the appellant claimed misappropriation of dowry articles but the said articles and their entrustment have not been specified in the FIR(supra). A list of dowry articles dated 20.07.2008 was produced on the record, however, no bills have been produced to strengthen this claim. As such, the case of the prosecution does not inspire any confidence.

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. (*See H.D. Sundara and others vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram vs. State of H.P., 1973 (2) SCC 808 and Chandrappa and others vs. 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 discussion above, this Court finds that learned counsel for the appellants has failed to point out any perversity or illegality in findings recorded by the learned Court below, which warrants any interference. Accordingly, the leave to appeal is denied.
7. Pending miscellaneous application(s), if any, also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

24.07.2024
Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No