



CRM-A-2111-MA-2016

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-2111-MA-2016
Date of Decision: 22.05.2024

BALWINDER KAUR

...Applicant-Appellant

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. K.S. Kahlon, Advocate
For the applicant-appellant

Mr. Sandeep Kumar, DAG, Punjab

Mr. A.D.S. Jattana, Advocate
For respondent no.2 to 4

HARPREET SINGH BRAR, J. (ORAL)

CRM-37440-2016

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 283 days in filing the application under Section 378(4) of Cr.P.C.

For the reasons mentioned in the application seeking condonation of delay, the same is allowed and the delay of 283 days in filing the aforesaid application is condoned.

CRM-A-2111-MA-2016

1. This instant application under Section 378(4) Cr.P.C. is preferred against the judgement dated 08.10.2015 passed by learned Judicial Magistrate Ist Class, Amritsar in complaint case No. 24493 of 2013 filed under Sections 406, 498-A of IPC at Police Station- Jandiala, Amritsar, whereby respondent no.2 to 4 (private respondents) were acquitted of the charges framed against them.



CRM-A-2111-MA-2016

2

2. The facts, in brief, are that marriage between the applicant-complainant and respondent no.2-accused was solemnized on 28.03.2005 and dowry articles including gold ornaments weighing 150 grams, one motorcycle, refrigerator, washing machine, almirah, six *shawls* and Rs.7,000/- in cash were given at the time of their marriage by the parents of the applicant to her husband, father-in-law (respondent no.3) and mother-in-law (respondent no.4) and some other family members. Soon after the marriage, the private respondents started harassing the applicant for not bringing sufficient dowry and further demanded Rs.1 lakh and a Car. When the applicant refused to meet their demands, the private respondents started beating her and also threatened to kill her and finally, ousted her from the matrimonial house and also misappropriated her *Stridhan*. Thereupon, the applicant filed the complaint (supra), wherein, the private respondents were acquitted of the charges framed against the for commission of offences punishable under Section 406, 498-A of IPC. Aggrieved by their acquittal, the applicant has preferred the present application before this Court.

3. I have heard the learned counsel for the parties and carefully perused the record with their able assistance. As far as the offence punishable under Section 406 of IPC is concerned, apart from the testimony of the applicant there is no other evidence to prove entrustment of the dowry articles to respondents. No receipts or bills have been placed on record regarding purchase of the *Stridhan* articles by the applicant in order to support her allegations. She produced the original bills of the dowry articles allegedly given to the private respondents at the time of marriage but failed to examine the dealers from whom the said articles were purchased and furthermore, some of the bills are in the name of respondent no.2. Therefore, the private respondents cannot be held guilty under Section 406



Section 498-A, it was alleged by the applicant that she was confined in a room by the private respondents. However, in her cross-examination, the applicant has admitted that no doors or windows were installed yet in the matrimonial house at the time of her marriage, which renders her argument futile. Further, there is no medical evidence on record to substantiate the claim of the applicant that she was subjected to physical harassment by the private respondents. Also, no independent witness was examined by the applicant to corroborate her stand. Moreover, the allegations levelled by the applicant against the private respondents lack specificity and are not sufficient to establish their guilt beyond reasonable doubt. Thus, the judgement under challenge in the present petition deserves affirmation by this Court.

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 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 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



CRM-A-2111-MA-2016

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

22.05.2024
Ajay Goswami

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