



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

CRM-A-1620-MA-2017 (O&M)
Date of decision: 21.08.2024

Ishwar Chand

....Applicant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Puja Chopra, Advocate
for the applicant.

Mr. Sandeep Kumar, DAG, Punjab

HARPREET SINGH BRAR, J.

CRM-24021-2017

The present application is filed under Section 5 of the Limitation Act, 1963, seeking condonation of delay of 586 days in filing the application under Section 378(3) Cr.P.C.

For the reasons mentioned in the application, the same is allowed and the delay of 586 days in filing the said application is hereby condoned.

CRM-A-1620-MA-2017

1. The present application is preferred under Section 378(3) of Cr.P.C. against the judgment of acquittal dated 20.10.2015 passed by learned Additional Sessions Judge, Patiala, in the case stemming from FIR, bearing no. 10 dated 09.01.2015 under Section 306 of the IPC at Police Station Sadar, Patiala.



2. Briefly, the facts are that the FIR was registered on the statement of the father of the deceased, wherein it is alleged that his daughter was married to respondent No.2 sometime in the year 2005. Two children were born out of the wedlock. It is alleged that respondent No.2-accused used to harass his wife and on instigation of his family members, threatened to contract a second marriage after getting a divorce. On 09.01.2015, upon reaching Rajindra Hospital, Patiala, the applicant learned that his daughter had died by suicide. Apprehending that his daughter was murdered by respondent No.2 and his family members, the applicant approached the police.

3. Having heard the learned counsel for the parties after perusing the record of the case with their able assistance, it appears that there is nothing in the judgement of the learned trial Court to indicate perversity or misreading of evidence. The complainant has admitted in his deposition, who was examined as PW-1, that during the subsistence of marriage of his deceased daughter with respondent No.2 no complain on account of cruelty or harassment meted out by the husband was ever moved either before a *panchayat* or before the police. Furthermore, no other person from the village at which the deceased and her husband were residing came forward to substantiate the allegations of harassment and torture. Nothing has been brought on record by the prosecution which indicates that the husband and in-laws of the deceased drove the deceased to take the extreme step of dying by suicide.

4. Furthermore, the applicant-complainant admitted that his wife died by suicide and that his grandson is of unsound mind. These circumstances further indicate the existence of a hostile environment that would have pushed the deceased to the extreme step of taking her own life. There is no evidence of goading or urging or inciting or encouraging the deceased to die by suicide.



Mere allegation that respondent No.2 threatened to divorce the deceased is not sufficient to establish abetment on his part. There is no evidence as to whom he wanted to marry and why he was compelling his wife to divorce him when just four months ago they were blessed with a child. Lastly, the prosecution failed to prove any positive or direct act on behalf of respondent No.2-accused to show that he had the *mens rea* or which can be said to be incitement to drive her to take her own life seeing no other option.

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

21.08.2024
Neha

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