

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CRM-A-263-MA-2016
Date of Decision: April 24, 2024

SULEKH LATA

...Applicant-Appellant

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Satbir Rathore, Advocate
for the applicant-appellant.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This instant application under Section 378(4) Cr.P.C. is preferred against the judgement of acquittal dated 24.12.2015 passed by learned Judicial Magistrate Ist Class, Dasuya in complaint case No.COMI-401/2013 dated 21.04.2010 filed under Sections 406, 498-A of IPC, vide which, the private respondents were acquitted of the charges framed against them.
2. The facts, in brief, are that marriage of the applicant-complainant was solemnized with respondent no.2 on 17.11.2003. Two daughters were born out of this wedlock. At the time of marriage, all the dowry articles were given to the husband as well his parents, i.e., respondent no. 3 and 4. Soon after marriage, the private respondents started harassing the applicant for not bearing a male child and started demanding cash amount from her. When the applicant refused, she was given severe beatings by the private respondents. The applicant was further badly beaten on 20.04.2009, 27.02.2010 and 25.03.2010.

The applicant also informed about the incident to the Army Authority qua respondent no.2. Even the parents of the applicant tried to resolve the matter but were unable to do so. Thereafter, respondent no.2 refused to keep the applicant with him and she moved back to her parental house. All the dowry articles entrusted to the private respondents have been misappropriated by them for their personal use. Aggrieved, the applicant filed the complaint (supra) against the private respondents in which they were ultimately acquitted of the charges framed against them.

3. I have heard the learned counsel for the applicant and carefully perused the record with his able assistance. It transpires that there are material contradictions in statements made by the applicant-complainant in her pre-charge and post-charge evidence. Further, the statements made by the applicant are devoid of any specificity regarding the allegations of dowry demand levelled by her. Furthermore, PW4-Balbir Singh has admitted in cross-examination that no such quarrel as alleged ever occurred in his presence nor any demand for dowry articles was made. Further, no bill of the items mentioned in the list of dowry articles (Ex.C-1) has been presented before the Court. Further, the evidence, when viewed in totality, clearly reveals that the prosecution has been unable to adduce any evidence that could establish the guilt of the accused in regard to cruelty or maltreatment by the private respondent. Further, no specific incident or evidence has been brought on record by the applicant to substantiate her claim that she was subjected to mental cruelty by the private respondents. It further appears that the applicant was not living continuously with the private respondents post marriage. All of the aforesaid facts clubbed together are sufficient for this Court to affirm the order under challenge in the present application.

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 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.

24.04.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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