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

CRM-A-238-MA-2017
Date of decision: 03.04.2024

Inderpreet KaurApplicant

Versus

Prabhjit Singh and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Siddharth Gupta, Advocate
for the applicant.

Mr. Satbir Rathore, Advocate
for the respondents

HARPREET SINGH BRAR, J.

CRM-4635-2017

This is an application under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 48 days in filing the accompanying application under Section 378(4) of the Code of Criminal Procedure, 1973 (hereinafter ‘Cr.P.C.’).

For the reasons mentioned in the application, the same is allowed and the delay of 48 days in filing the application is condoned.

CRM-A-238-MA-2017

1. The present application is preferred under Section 378(4) of the Cr.P.C. against the judgment of acquittal dated 15.10.2016 passed by learned Judicial Magistrate 1st Class, Bilaspur, in a criminal complaint case, bearing no.

COMI/0000128/14, filed under Sections 498-A, 406 read with Section 34 of the IPC.

2. Briefly, the facts are that the marriage of applicant-complainant with respondent no.1-accused was solemnised on 13.04.2008 as per Hindu rites and rituals. Soon after the wedding, the applicant-complainant started being subjected to taunts as well as physical assault on account of not bringing sufficient dowry articles to the matrimonial home. Further, respondent no.1-accused refused to consummate the marriage and when the applicant-complainant requested that he be medically examined, no steps were taken in that regard. No child was born out of wedlock as the marriage could not be consummated. Respondent no. 2-accused constantly ridiculed the applicant-complainant that she is a barren lady. The applicant-complainant moved a complaint before the Superintendent of Police, Yamuna Nagar which was handed over to the Women Cell and was recorded in Diary Register no. 492, dated 26.02.2010 but no action was taken. Hence the complainant before the Magistrate.

3. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that despite making allegations of cruelty and harassment against the respondents-accused, the applicant could not recall the exact dates or the time as well as any specific instances when she suffered at the hands of the respondents. Moreover, as per the complaint filed by the applicant before the Magistrate, a Panchayat was convened in the second week of June, 2008 to amicably settle the marital dispute, however, no witnesses have been examined by the applicant to

corroborate this claim. Mere omnibus and vague allegations against the respondents cannot be sufficient grounds to convict the respondents.

4. Furthermore, the only specific allegation against respondent no. 2 is that she taunted the complainant and called her a barren lady. No material has been brought on record to substantiate this allegation. Also, no bills of purchase of dowry articles or other incriminating material have been produced by the applicant, despite claiming that the dowry articles have been misappropriated by the respondents. With regard to the accusations of physical assault, the applicant has not advanced any medical record. Crucially, the complaint submitted to the Superintendent of Police as well as the list of dowry articles submitted before him, did not bear the signature of the applicant and upon investigation by the Women Cell, the allegations levelled by the applicant were found to be baseless. Lastly, there is a glaring inconsistency in the testimony of the applicant. While, as per her deposition, when she was turned out of the matrimonial home, she sought refuge at her uncle's house, however, in the complaint she narrated that she went to her paternal home. In her cross-examination she also showed her willingness to join the company of respondent no.1-accused.

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

03.04.2024
Neha

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