



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

CRM-A-247-MA-2017

Date of decision: 23.07.2024

Paramjit Kaur

...Applicant/Appellant

Versus

Hardev Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vardaan Sharma, Advocate
for Mr. Manbir Singh Batth, Advocate
for the applicant/appellant

HARPREET SINGH BRAR, J.(ORAL)

1. The present application under Section 378(4) of Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') is preferred against judgment of acquittal dated 04.11.2016 passed by the learned Sub Divisional Judicial Magistrate, Balachaur, S.B.S. Nagar in criminal complaint No.83/1 of 2009 dated 08.06.2009 under Sections 498-A, 406, 323 IPC.

2. Briefly, the facts are that the marriage between the applicant/appellant and respondent No.2 was solemnised on 02.01.2006, in accordance with Sikh rites and rituals. However, the accused were not satisfied by the dowry articles given by her parents, which caused them to harass the applicant/appellant. A month after the wedding, respondent No.2 left for Italy, where he currently resides. At the instance of respondent No.2, the in laws of the applicant/appellant beaten her and kept her starving many times. On 28.08.2006, the applicant/appellant was turned out of the



compromise was arrived at and the applicant/appellant was rehabilitated. In spite of the same, the accused continued maltreating the applicant/appellant. On 01.02.2009, her sister-in-law Sukhwinder Kaur (*jethani*) dragged the applicant/appellant from her hair while her brother-in-law Ranjit Singh punched her in the stomach, mother-in-law Mohinder Kaur slapped her and brother-in-law Narinder Singh kicked her. Meanwhile accused Manoj Kumar and Jasbir Kaur also reached the spot and gave beatings to her. Ultimately, the applicant/appellant yet again shunned out of her matrimonial home and told to return only if she can procure Rs. 50,000/-. The applicant/appellant was admitted in the Civil Hospital by her uncle Avtar Singh, where she remained till 01.02.2009. In spite of requests from the parents of the applicant/appellant, the accused refused to rehabilitate her in the matrimonial home. The *stridhan* of the applicant/appellant also remains in possession of the accused.

3. Having heard the learned counsel for the applicant/appellant and perusing the record of the case with his able assistance, it transpires that there are material contradictions in the story put forward by the prosecution. The applicant/appellant deposed that she remained in her matrimonial house with her husband for one month while, in her cross-examination, she stated that she stayed there with respondent No.2 till 28.08.2006. Moreover, the applicant/appellant had claimed that respondent No.2 did not return to India once he left for Italy, however, his passport has been stamped for July 2008 and August 2008, indicating that he did come back to India and resided with the applicant/appellant. In fact, the applicant/appellant has herself admitted that respondent No.2 got her passport made and made preparations to take her abroad with him. Be that as it may, respondent No.2 was not in India on 01.02.2009, as such no instance of cruelty can be reasonably made out against



4. Additionally, the applicant/appellant claims that she was admitted to the Civil Hospital by her uncle Avtar Singh on 01.02.2009. However, Avtar Singh, while appearing as CW3, deposed that he is not certain as to his whereabouts for 01.02.2009 and that he found out about the alleged incident the next day. Admittedly, proceedings under Section 107/151 Cr.P.C. were initiated against CW3-Avtar Singh, on the complaint of Sukhwinder Kaur, sister-in-law (*jethani*) of the applicant/appellant. As such, the compliant (*supra*) appears to be filed as a counterblast to the same. Finally, no list of dowry articles or bills qua purchase of any items comprising the *stridhan* of the applicant/appellant have been placed on the record, which leaves the allegation of commission of offence under Section 405 IPC unsubstantiated.

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 applicant/appellant has failed to point out any perversity or illegality in findings recorded by the learned Court below, which warrants any



interference. Accordingly, leave to appeal is declined and the present application stands dismissed.

7. Pending miscellaneous application(s), if any, also stand disposed of.

23.07.2024 (HARPREET SINGH BRAR)
manisha JUDGE

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