

**CRM-A-2562-MA-2017(O&M)**

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**208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-A-2562-MA-2017(O&M)
Date of Decision: 07.05.2024****Rajwinder Kaur @ Aman****...Applicant****Versus****Gurpartap Singh and others****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Ankur Mehta, Advocate
for Mr. A.S. Manaise, Advocate
for the applicant.

None for the respondents.

*********HARPREET SINGH BRAR, J.(ORAL)**

1. The present application under Section 378(4) read with Section 482 Cr.P.C. is preferred against judgment of acquittal dated 24.10.2017 passed by the learned Judicial Magistrate Ist Class, Batala in criminal complaint No. 366 dated 11.12.2013 registered under Sections 406, 498-A IPC.

2. Briefly, the facts are that the marriage between the applicant and respondent No.1 was solemnised on 13.12.2006. The respondents-accused were not satisfied with the dowry articles brought by the applicant, causing them to harass her. The respondents-accused pressurized the applicant to get Rs. 3,00,000/- and a vehicle from her parents. On her inability to do so, the applicant was beaten mercilessly and ousted from the matrimonial home on various occasions. In fact, the applicant was made to undergo a sex determination test when she was pregnant and on finding out that she was carrying a female child, she was pressurised to abort the foetus. The child was

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born on 14.10.2001 and the expenses for the delivery were borne by the parents of the applicant. Soon after the delivery, the respondents-accused started demanding Rs. 3,00,000/- again and when the said demand was not met, the applicant and her minor child were ousted from the matrimonial home. It is also alleged that at two occasions, respondent No.1 tried to kill the applicant by sprinkling kerosene oil on her. From the last two years, the applicant has been staying at her paternal house as she was refused entry into the matrimonial home till the demand of Rs. 3,00,000/- was fulfilled. The dowry articles as well as the *stridhan* of the applicant continues to stay in possession of the respondents, who have refused to return the same.

3. Office report indicates that the respondents were duly served. However, there is no representation on their behalf. As such this Court is left with no other option but to decide the present application on its own merits.

4. Having heard the learned counsel for the applicant and perusing the record of the case with his able assistance, it is evident that the prosecution has not brought anything on the record to prove purchase of the alleged dowry articles. While the applicant presented bills of the said articles, she could not state from what place the same were bought by her father. Moreover, in his cross-examination, the father of the applicant, appearing as CW2, admitted that he has failed to produce any documents, which can be easily procured from the DTO, on the record to confirm the purchase of the motorcycle made by him. Surprisingly, even the photographs or videos from the wedding could not be produced in Court. As such, the threshold for invoking the provisions of Section 406 IPC has not been breached.

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5. Furthermore, as far as allegations qua offence under Section 498-A IPC are concerned, the applicant has not mentioned the incident of pouring kerosene oil on her, in her examination-in-chief as CW1. The applicant has also failed to mention a specific date or any time frame in which the alleged demand for dowry was made and she was given beatings. It is the case of the prosecution that the applicant was beaten up twice or thrice till the year 2007 and turned out of the matrimonial home several times from the year 2007 to 2013. Conspicuously, no action was taken by the applicant in spite of repeated incidents of alleged harassment. The inordinate delay in filing the complaint (supra) has remained unexplained on the part of the prosecution. Moreover, vague and omnibus allegations are made qua the respondents-accused and no specific roles indicating cruelty have been attributed to them. As such, the circumstances are suggestive of the fact that the complaint (supra) has been filed as a counterblast to the divorce petition moved by respondent No.1.

6. 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.

7. In view of the discussion above, this Court finds that learned counsel for the applicant 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 denied and the application is dismissed, being bereft of any merit.

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

(HARPREET SINGH BRAR)
JUDGE

07.05.2024
Ajay Goswami

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