



CRR-1320-2022

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237 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1320-2022

Date of decision: 18.07.2024

Shayara Bano

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sudhir Rana, Advocate
for the petitioner

Mr Vikas Bharadwaj, AAG, Haryana

HARPREET SINGH BRAR, J.(ORAL)

1. The present revision is preferred against judgment dated 13.08.2021 passed by the learned Additional Sessions Judge, Rewari whereby judgment of acquittal dated 01.03.2017 passed by the learned Chief Judicial Magistrate, Rewari in FIR No. 349 dated 27.11.2011 registered under Sections 323,406,498-A,506 of the IPC at Police Station City Rewari in favour of respondent No. 2, was upheld.

2. Briefly, the facts are that the marriage between the petitioner and respondent No.2 was solemnised on 21.10.2007. However, just after one month of the wedding, the in laws family of the petitioner taunted her for bringing inadequate dowry and began demanding Rs. 50,000/- from her. On her refusal, the petitioner was threatened and beaten mercilessly. Under pressure of her in laws, the petitioner procured Rs. 50,000/- from her father. However, they continued to beat and harass her on petty matters and raised a demand of Rs. 5,00,000/-. When the petitioner tried to inform her brother of



the mistreatment meted out to her, her mother-in-law tried to strangle her. The petitioner locked herself in a room while her sisters in law tried to break open the door. Respondent No.2 poured kerosene oil into the room through the window and threatened her not to call her brother. Thereafter, the petitioner with her baby daughter moved to her parents' house. All the dowry articles brought in by the petitioner continue to remain in the possession of the accused, in spite of multiple requests for their return.

3. Having heard the learned counsel for the petitioner and perused the record of the case with his able assistance, it transpires that the FIR(supra) was registered in the year 2011 claiming harassment qua unlawful demand of dowry, which allegedly began a month into their marriage that was solemnised in the year 2007. No reason is forthcoming on the part of the prosecution to explain the said delay. Moreover, the mother in law and sisters in law of the petitioner were exonerated during investigation and the final report under Section 173 Cr.P.C. was only passed against respondent No.2. In fact, the mother-in-law of the petitioner was bed-ridden and unable to walk at the time of the alleged strangulation incident. The petitioner has also alleged that *panchayat* was convened, as a consequence of which she moved back into her matrimonial home, however, no one from the said *panchayat* has been examined by the prosecution.

4. Additionally, PW5-Manoj, in his cross-examination, admitted that the statement he made to the police was based on hearsay only. Further, DW1- Ismail, cousin brother of respondent No.2, who was one of the mediators in the marriage, deposed that the root cause of the dispute lies in the fact that respondent No.2 refused to live separately from his mother as she is a



cancer patient and is unable to walk. Curiously, the petitioner did not try to cast a shadow of doubt over DW1-Ismail's testimony due to his familial relations with respondent No.2, during cross-examination. The petitioner also did not herself medico-legally examined after the alleged incident of being detained in her room and beaten in December 2010. Finally, PW1-Niranjan, Investigating Officer has deposed that the dowry articles, as per the list provided by the petitioner, have been recovered. As such, this Court is of the considered opinion that none of the offences alleged against respondent No.2 stand substantiated by the prosecution.

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 petitioner has failed to point out any perversity or illegality in findings recorded by the learned Courts below, which warrants any



interference. Accordingly, the present revision petition is dismissed, being bereft of any merit.

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

(HARPREET SINGH BRAR)
JUDGE

18.07.2024
Ajay Goswami

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