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CHANDIGARH**

**CRM-A-785-2019 (O&M)**  
**Date of Decision: 22.11.2024**

**KAMALJIT KAUR**

**...Applicant**

**V/S**

**STATE OF HARYANA AND OTHERS**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Sarvesh Malik, Legal Aid Counsel  
for the applicant.

Mr. Vikas Bhardwaj, AAG Haryana.

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**HARPREET SINGH BRAR J. (Oral)**

**CRM-12854-2019**

This is an application under Section 5 of the Limitation Act for condonation of delay of 234 days in filing the application seeking leave to appeal.

For the reasons mentioned in the application, same is allowed and delay of 234 days in filing the application seeking leave to appeal is condoned.

**CRM-A-785-2019 (O&M)**

1. The present application is preferred under Section 378(3) of the Cr.P.C. against the judgment of acquittal dated 21.04.2018 passed by learned Additional Sessions Judge (Exclusive Court for the Heinous Crime against Women and Children), Yamuna Nagar at Jagadhri in FIR No. 232 dated 25.11.2016 registered under Sections 323, 354, 376, 511, 506 of Indian Penal Code at Police Station Chhappar, District Yamuna Nagar.

2. FIR(supra) was registered on the basis of complaint made by complainant 'K' on the allegations that her marriage was solemnized with Ravinder Singh-respondent No. 3 in the year 2004. Out of this wedlock, she was

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blessed with two children namely 'M'-daughter and 'H'-son. Since the beginning of her marriage, Ravinder Singh, her husband used to remain ill. On 30.09.2016, she visited Women Police Station, because her father-in-law Avtar Singh-respondent No. 2 was having an evil eye upon her since three years. It was further alleged that on 29.09.2016, while she was alone in the house, Avtar Singh, her father-in-law finding opportunity, started harassing her and committed bad act with her. On 30.09.2016, he again repeated bad activity with her. Then she went to her relatives. On 01.10.2016, her father-in-law Avtar Singh got lodged an FIR bearing No. 186 dated 01.10.2016 under Section 365 of Indian Penal Code, 1860, at Police Station Chhappar and she left the house without informing anyone and on 06.10.2016, she made the statement before the learned Magistrate. She kept on waiting that her father-in-law, mother-in-law and husband would come to take her back, but they did not approach her. She wanted to settle her house, but her father-in-law time and again used to threaten her to injure her life. Since the day of her marriage, her husband is beating her.

3. Having heard the learned counsel for the applicant and after perusing the record of the case with his able assistance, it transpires that learned Court below has opined that complainant did not tell about the incident dated 29.09.2016 to anyone in the village or to any relative and she did not go to police. Moreover, there was no medical evidence available on record to support the allegations levelled by the complainant that accused Ravinder Singh used to beat her and there was no corroborative evidence on the file in that regard. Learned Court below has further rightly found the conduct of prosecutrix-complainant to be highly doubtful and that is why rendered her testimony as



unworthy of credit. It was further rightly concluded by learned Court below that if the complainant was being sexually harassed by her father-in-law for so many years, she cannot be expected to keep quite about that. Learned Court below has rightly come to the conclusion that testimony of the prosecutrix and the associated circumstances, left a mark of doubt to treat the same to be natural and truthful to inspire confidence.

4. 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.

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.

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

22.11.2024  
Ajay Goswami

(HARPREET SINGH BRAR)  
JUDGE

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No