

**CRR-823-2022****1****231 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-823-2022****Date of Decision: 17.07.2024****DEEPA SHARMA****...Petitioner****Versus****ANUJ BHARDWAJ AND OTHERS****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Vipin Pal Yadav, Advocate
For the petitioner.

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

1. The present revision petition has been preferred against the impugned judgement dated 21.01.2020 passed by learned Additional Sessions Judge, Gurugram, whereby, the appeal filed by the petitioner was dismissed and the impugned judgement dated 26.10.2017 passed by learned Chief Judicial Magistrate, Gurugram, was upheld vide which respondents no.1 to 3 (private respondents) were acquitted of charges framed against them in FIR No.168 dated 25.02.2016 registered under Sections 406, 498-A, 34 of IPC at Police Station- City, Gurgaon.

2. Succinctly, the facts are that marriage of the petitioner and respondent no.1 was solemnized on 07.06.2015 and it was the second marriage for both the parties. At the time of the said marriage, father of the petitioner gave various dowry articles including gold ornaments to the respondents. Soon after marriage, on 16.07.2015, the petitioner and respondent no.1 shifted to a private accommodation. Thereafter, respondent no.3-mother-in-law started harassing the petitioner for not bringing sufficient dowry and further demanded

**CRR-823-2022****2**

Rs.5 Lacs cash and a Wagon R car and the other respondents also supported the said illegal demand. The entire jewellery given to the petitioner by her parents was misappropriated by respondents and they continued to physically and mentally harass her. The petitioner had to arrange a sum of Rs.30,000/- and Rs.50,000/- on 07.08.2015 and 22.08.2015, respectively, and the said amount was handed over to respondent no.1. Then, on 01.10.2015, respondent no.1 shifted the petitioner to another accommodation where she was left to fend for herself. Thereafter, the petitioner made a complaint on account of which the FIR(supra) was registered.

3. After receiving the abovesaid complaint, investigation was conducted by the concerned police and the FIR (supra) was registered against the respondents initially under Sections 498-A, 406, 316, 323, 506 read with Section 120-B of IPC but after verification by the concerned police official, Sections 316, 323, 506, 120-B were deleted on 07.05.2016. The learned trial Court, on finding a prima facie case against the respondents, framed charges for commission of offences punishable under Sections 406, 498-A read with Section 34 of IPC, to which they pleaded not guilty and claimed trial. Ultimately, the learned trial Court, after recording that there is no concrete evidence on file to prove the allegations levelled by the petitioner against the respondents, acquitted them of the charges framed against them. Aggrieved, the present petitioner preferred an appeal before the learned Additional Sessions Judge, Gurugram and the same was also dismissed. Hence, the present petition.

4. Learned counsel for the petitioner vociferously contends that the learned Courts below erred in acquitting the respondents despite the fact that

**CRR-823-2022****3**

petitioner had levelled specific allegations against them, thereby, duly establishing that she was harassed on account of dowry demand and her *Istridhan* was also misappropriated by them. He further submits that the case of the prosecution stood duly corroborated by the documentary evidence on record.

5. I have heard learned counsel for the petitioner and carefully perused the paper-book with his able assistance. It transpires that the petitioner has categorically admitted in her cross-examination that she did not have any proof of purchase of the dowry articles alleged to have been given to the respondents. The father of the petitioner not only failed to produce any receipts or bills qua the gold ornaments and other dowry articles before the learned Courts below but also could not disclose the name of the shop from where those articles were purchased. Further, the allegations regarding Rs.30,000/- and Rs.50,000/- given by the petitioner in lieu of the dowry demand of the respondents was also not corroborated by any document such as withdrawal slip or bank statement. No medical evidence has been placed on record to substantiate the allegations qua beatings given to the petitioner. Allegation qua forced termination of pregnancy of the petitioner also could not find support from the report of the doctor Simran Jeet Kaur. In addition to the lack of documentary evidence, even the allegations levelled by the petitioner are general and vague with respect to entrustment of her *Istridhan*. After taking into consideration the paucity of documentary evidence and the fact that the allegations levelled by the petitioner are omnibus in nature which have further remained uncorroborated, this Court finds no force in the arguments advanced by the learned counsel for the petitioner.



CRR-823-2022

4

6. Furthermore, 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 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. A two Judge Bench of Hon'ble Supreme Court in case of **Chandrappa (supra)** has laid down the parameters with regard to the power of appellate Court while dealing with an appeal against an order of acquittal. Speaking through Justice C.K. Thakker, the following was held:

"42. From the above decisions, in our considered view, the following general principles regarding powers of appellate Court while dealing with an appeal against an order of acquittal emerge;

(1) An appellate Court has full power to review, re-appreciate and reconsider the evidence upon which the order of acquittal is founded;

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate Court on the evidence before it may reach its own

conclusion, both on questions of fact and of law;

(3) Various expressions, such as, 'substantial and compelling reasons', 'good and sufficient grounds', 'very strong circumstances', 'distorted conclusions', 'glaring mistakes', etc. are not intended to curtail extensive powers of an appellate Court in an appeal against acquittal. Such phraseologies are more in the nature of 'flourishes of language' to emphasise the reluctance of an appellate Court to interfere with acquittal than to curtail the power of the Court to review the evidence and to come to its own conclusion.

(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court."

8.

In view of the facts and circumstances of the case, 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 interference by this Court. As such, there is no merit in the present petition and the same stands dismissed.
9.

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

17.07.2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No