

**CRM-12171-2019 in/and
CRR-910-2019
Date of decision: 09.08.2024**

...PETITIONER

...RESPONDENTS

CRM-12171-2019

Delay of 221 days in filing the revision petition stands condoned.

MAIN CASE

1. The present revision petition has been filed against the impugned judgment dated 08.05.2017 passed by learned Sub-Divisional Judicial Magistrate, Meham and impugned judgment dated 30.05.2018 passed by learned Additional District and Sessions Judge, Rohtak, whereby respondents No. 1 to 4 have been acquitted by both the both the Courts below.

2. Briefly, the case of the prosecution is that on 29.11.2013 petitioner/complainant moved an application before Superintendent of Police, Rohtak alleging therein that her marriage was solemnized with accused Jasmer (respondent herein) S/o Maya Chand on 02.06.2011 as per Hindu rites and ceremonies and in this marriage, her father gave dowry articles beyond his



capacity, but even then accused/respondents were not satisfied. Since the inception of the marriage, her mother-in-law accused Santro and her jethani (wife of elder brother of her husband) used to taunt her saying that she belonged to hungry family and in the marriage her parents had given nothing and in case they had settled the marriage of accused/respondent No.1 Jasmer somewhere, they would have got one car and huge dowry articles keeping in view the personality of accused Jasmer, but neither she brought dowry articles nor was she so beautiful and asked her either to die or to leave Jasmer and they would bring new bride. Respondent/accused i.e. husband used to beat her daily and used to ask her to bring money from her parents so that he could fill his shop with the articles of cosmetics which he was running. She persuaded her husband not to do so, but to no use and in the first week of August 2011, firstly her accused/respondent No.1 mother-in-law and jethani gave her beatings and in the evening when her accused/respondent No.1 husband came to the house then he and her father-in-law Maya Chand gave her beatings mercilessly. She disclosed the incident to her father on telephone, then her father and uncle Naresh came to her matrimonial home and her father gave a sum of Rs.1 lakh to them after arranging the same from her uncle Bijender. For few days, she was kept nicely, but they again started beating her and on 23.04.2012 she gave birth to a daughter namely Arushi, but after that their behavior became more cruel towards her and after the birth of female child, whole family of her in-laws started hating her and even she was not provided proper meal and diet after the birth of female child. On 3.6.2012, her *jethani* caught hold her hair and pushed her from the cot, whereas respondent No.2/accused i.e. her mother-in-law gave her kick and fist blows and her respondent No.1 husband gave her beatings with *danda* and rope and



threatened her to eliminate. On the next morning, she made a call to her father and then her brother Manoj came and took her with him to the parental home. Her father and uncle convened *panchayats* 3-4 times, but to no use. Hence, the complaint.

3. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that only vague allegations have been levelled against the respondents i.e. for demand of dowry and no specific date, month and time and from whom, the same was demanded, has been mentioned. Moreover, mother of the petitioner was not sure about the date of marriage of the petitioner with respondent No.1. No specific article of dowry has been mentioned either in the complaint or in the deposition of witnesses. Furthermore, petitioner/complainant has mentioned in the complaint that father of the complainant arranged a sum of Rs.1 lakh from his uncle but he did not state the said fact in his testimony. Neither Bijender was examined and nor it has come in the evidence of the witnesses that to whom, the said amount of Rs.1 lakh was given. Moreover, the allegation regarding demand of dowry is hearsay evidence and it appears that being the interested witnesses, they deposed about demand of dowry only for success of the case. Even no bill/receipt regarding purchase of any dowry article by the petitioner/complainant and her family members has been placed on record to show that any such article was given in the marriage. As per the deposition of the complainant/petitioner, demand of dowry started just after inception of the marriage, which took place on 02.06.2011, but this version is not believable at all as if it had been so, the petitioner/complainant would have lodged the complaint immediately after the marriage and would not have waited for such a long period, as present complaint was moved on 29.11.2013 i.e. approximately



after 01 and half years. Furthermore, no *panchayat* member, who attended the *panchayat* 3-4 times, has been examined by the prosecution to prove even the factum that any *panchayat* took place to resolve the matter. Had the respondents/accused given beatings to the petitioner/complainant, she must have been medico-legally examined by the medical officer or by some private doctor, but no medical record has been produced to prove the factum of beatings during her stay at matrimonial home. There is not even an *iota* of evidence against the respondents regarding demand of dowry and harassment. Thus allegations under Section 498-A of IPC are not proved at all against the respondents. A perusal of the deposition of defence witness namely, Jai Bhagwan, indicates that petitioner/complainant insisted that she would live in the matrimonial home only when half of the property will be transferred in her name. Even this fact has been admitted by mother of the petitioner/complainant in her deposition that her daughter agreed to live in the matrimonial house, in case two *killas* land would be transferred in her name. As such, the case of the prosecution does not inspire any confidence of this Court.

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. (*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.

5. 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 Court below, which warrants any interference. Accordingly, the present revision petition is dismissed.

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

August 09, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |