

**CRM-25251-2024 in/and
CRR-1188-2024 (O & M)
Date of decision: 21.11.2024**

...PETITIONER

V/S

...RESPONDENTS

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

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For the reasons mentioned in the application, the same is allowed.

Delay of 237 days in filing the present revision petition stands condoned.

MAIN CASE

1. The present revision petition has been filed against the impugned judgment dated 25.02.2019 passed by learned Judicial Magistrate Ist Class, Gurdaspur as well as impugned judgment dated 22.05.2023 passed by learned Additional Sessions Judge, Gurdaspur, whereby respondent Nos.1 to 3 have been acquitted by both the Courts below.

2. Brief facts of the case, as alleged, are that marriage of the petitioner was solemnized with respondent No.1 about 8/9 years ago. Out of the wedlock, two girl children were born. However, matrimonial dispute ensued between the couple on account of demand of dowry, birth of two female



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children and other reasons, due to which, husband and in-laws of the petitioner started harassing her and tried to kill her. Hence, the complaint.

3. Having heard the learned counsel for the petitioner and after perusing the record of the case with his able assistance, it transpires that the entire story of the prosecution revolves around the application filed by the petitioner, who is the wife of respondent No.1-Harish Kumar for initiating action against him and others regarding demand of dowry. Further, it has been alleged that respondent No.1 used to harass her and did not give her any maintenance amount and he kept the ATM card of the petitioner and also tried to kill her by throwing her from the motorcycle. Further, she gave birth to two daughters and the private respondents started hating her more after their birth. Thus, there is no specific allegation regarding the demand of dowry. As such, offence under Section 498-A IPC is not made out. Further, in the initial application to SSP Gurdaspur, the petitioner did not mention regarding demand of Innova car. The petitioner, while appearing as PW-1, herself has admitted that there was nothing on record regarding demand of dowry. She also admitted that on the day of accident, the petitioner and respondent No.1 were coming on the same motor-cycle, while respondent No.1 was driving the motor-cycle and she was sitting on the rear seat, the accident took place with another motor-cycle coming from the opposite side and thereafter, initially they both went to Civil Hospital, Gurdaspur, where doctor medically examined them. There is nothing on record to substantiate the injuries suffered by the petitioner in the said accident. Furthermore, respondent Nos.2 and 3 are senior citizens being more than 80 years and 70 years of age and it does not look probable that they would have taunted and beaten the petitioner for demand of



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dowry. Even otherwise, there is nothing on record to prove the culpability of the private respondents. As such, the deposition of witnesses examined by the prosecution does not inspire confidence to the extent as was necessary to prove accusation levelled by them.

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

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

November 21, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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