



209 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-2346-2015 (O&M)
Date of Decision: 08.05.2024

MANJU BALA

...Petitioner

Versus

ANIL KUMAR AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. K.S. Dadwal, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

CRM-24200-2020

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 178 days in filing the present criminal revision.

For the reasons mentioned in the abovesaid application, the same is allowed and the delay of 178 days in filing the criminal revision stands condoned.

CRR-2346-2015

1. The present revision petition has been preferred against the impugned judgement dated 03.09.2014 passed by learned Additional Sessions Judge, Pathankot, whereby, the appeal filed by the petitioner was dismissed and the judgement dated 11.10.2010 passed by learned Judicial Magistrate Ist Class, Pathankot was upheld vide which respondents no.1 to 3 (private

**CRR-2346-2015 (O&M)****2**

respondents) were acquitted of charges framed against them in FIR No.119 dated 29.07.2001 registered under Sections 406, 498-A of IPC at Police Station-Divn. No.1, Pathankot.

2. Succinctly, the facts are that on 16.06.2001, the petitioner moved an application before the concerned Police, wherein, it was alleged that she was married to respondent no.1 on 05.12.1997 and no issue was born out of their wedlock. After six months of marriage, the private respondents, i.e., her husband, father-in-law and mother-in-law, respectively, started demanding Rs. 1,50,000/- in dowry as her husband wanted to go abroad. When the petitioner declined the said dowry demand, she was beaten mercilessly by the private respondents on various occasions and was treated inhumanely. Then on 20.08.1999, the petitioner was given some poisonous substance and thrown out of her matrimonial house, after which, she went to her parental house but her health kept on deteriorating due to the administered poison due to which she had to undergo treatment at a hospital. After some time, the private respondents came to her parental house and threatened her of physical violence in case she did not submit to their demand of Rs.1,50,000/- and also threatened to misappropriate her *Istridhan*. On account of the same, another application was moved by the petitioner before the concerned police on 19.03.2011, in consequence of which, the private respondents were summoned by the police but the matter was compromised through the intervention of the respectable persons of the society after which the petitioner started residing her matrimonial house. But on 03.06.2001, the petitioner was again turned out of her matrimonial house after being mercilessly beaten and made to sign some blank papers. It was further alleged by the petitioner that the private

**CRR-2346-2015 (O&M)****3**

respondents, who were jointly entrusted with the dowry articles, misappropriated the same in collusion with each other.

3. After receiving the abovesaid complaint, investigation was conducted by the concerned police and the FIR (supra) was registered against the private respondents. The learned trial Court, on finding a prima facie case against them, framed charges for commission of offences punishable under Sections 406, 498-A of IPC, to which they pleaded not guilty and claimed trial. Ultimately, the learned trial Court, after recording that there is no cogent and material evidence on file to prove the allegations levelled by the petitioner against the private respondents, acquitted them of the charges framed against them. Aggrieved by the said acquittal, the petitioner preferred an appeal before the learned lower Appellate Court which was dismissed being devoid of any merit vide the order which is under challenge in the present petition.

4. Learned counsel for the petitioner vociferously contends that the case of the petitioner was duly substantiated from her testimony during her examination as PW5 and stood corroborated by other prosecution witnesses. He further submits that the learned Courts below have ignored the testimony of PW12 Gulzar Singh according to which every single receipt of dowry articles entrusted to the private respondents stood verified and were made part of the record. Furthermore, the petitioner took a specific stand that she was maltreated by the private respondents in lieu of bringing more dowry and the same was corroborated by the testimony of father of the petitioner. Even PW1, PW2, PW3 and PW4 have all deposed that dowry articles including Television, Clothes, Utensils and Gold ornaments were purchased from them. Learned counsel for the petitioner further submits that the judgements passed by the

**CRR-2346-2015 (O&M)****4**

learned Courts below are wrong and contrary to the facts as well as law and therefore, require re-appreciation of the entire facts available on record and are liable to be set aside.

5. I have heard learned counsel for the petitioner and carefully perused the paper-book with his able assistance. It transpires that the allegations levelled by the petitioner against the accused severely suffer from lack of specificity in regard to entrustment of the dowry articles. Further, no specific date or instance of beatings has been mentioned by the petitioner and neither has she produced any medical evidence in support of her contentions qua beatings or poisonous substance given to her by the accused. Interestingly enough, the petitioner in her cross-examination herself admitted affidavit dated 08.05.2001(Ex.D1) executed by her in the presence of notary public stating that she had received all the dowry articles mentioned therein and also admitted that her husband-respondent no.1 gave her his blood during her medical treatment.

6. Further perusal of the case file shows that two key prosecution witnesses- PW6 Raj Kumar (uncle of the complainant) and PW8 Gokul Chand (father of the complainant) have failed to support the case of the prosecution. The rest of the material witnesses are official witnesses who have merely proved their case to the extent of them discharging their official duty. Considering the lack of any 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.

7. 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

**CRR-2346-2015 (O&M)****5**

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.

8. 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."

9. 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.
10. Pending miscellaneous application(s), if any, shall also stand disposed of accordingly.

08.05.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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