

**CRR-1804-2016****1****218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-1804-2016****Date of Decision: 15.07.2024****STATE OF HARYANA****...Petitioner****Versus****DR. RAJIV GOEL & ANOTHER****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Ms. Geeta Sharma, DAG, Haryana****Mr. Raman Mahajan, Advocate
for the respondents.************HARPREET SINGH BRAR, J. (ORAL)**

1. The present revision petition has been preferred against the impugned judgement of acquittal dated 16.01.2014 passed by learned Additional Chief Judicial Magistrate, Kurukshetra in case arising out of FIR No.357 dated 15.12.2005 registered under Sections 406, 498-A of IPC at Police Station- Sadar, Thanesar as well as the judgement dated 11.05.2015 passed by learned Additional Sessions Judge, Kurukshetra vide which the appeal filed by the petitioner-State against the aforesaid judgement of acquittal has been dismissed.

2. Briefly, the facts are that on 15.12.2005, the complainant moved a complaint before the concerned police, wherein, it was alleged that she had previously filed a case against her husband-respondent no.1 and her mother-in-law-respondent no.2, pertaining to physical and mental torture in lieu of dowry demand and the same was settled in women cell on 28.03.2005. But few days after the aforesaid settlement, the respondents again started maltreating the

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complainant on account of dowry demand. It was further alleged that respondent no.1-husband used to come home inebriated and beat her and even snatched her sim card in order to stop her from making phone calls to her parents. An application dated 07.12.2005 was also moved by the complainant before the concerned police but she could not keep up with the investigation. On 10.12.2005, the complainant was beaten by the respondents and threatened with dire consequences and thereafter, she was turned out of her matrimonial house on the very next day, i.e., on 11.12.2005 on account of her inability to meet their demand for bringing an amount of Rs.50,000/-. The complainant was forced to go to her parental home along with her son. Even the dowry articles given to her at the time of her marriage were misappropriated by the respondents. During investigation, the statements of witnesses were recorded and subsequently, the respondents were arrested.

3. Upon completion of investigation, challan against the respondents was presented in the learned trial Court and consequently, on finding prima facie case against them, they were charge-sheeted for commission of offences punishable under Sections 406, 498A of IPC to which they pleaded not guilty and claimed trial. Ultimately, the learned trial Court vide impugned judgement dated 16.01.2014 acquitted the accused of the charges framed against them.

4. Aggrieved by the acquittal of the accused, the petitioner-State preferred an appeal before the learned Additional Sessions Judge, Kurukshetra, which was dismissed vide impugned judgement dated 11.05.2015. Hence, the present revision petition.

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5. Learned State counsel appearing on behalf of the petitioner-State *inter alia* contends that perusal of the evidence of complainant-PW3 in its entirety, singularly establishes the case of prosecution and even after a lengthy cross-examination of the complainant, the defence could not shatter her testimony. She further argues that it is natural for minor contradictions to creep in after passage of time and the learned Courts below erroneously gave undue importance to the same and ignored the fact the complainant specifically deposed in her examination-in-chief about the date of dowry demand of Rs.50,000/- by the respondents. It is further contended that the leaned Courts below erred in observing that the complainant admitted that she was not harassed by the respondents, whereas, the evidence on file shows that the complainant admittedly went into depression due to the extreme cruelty she faced at the hands of the respondents. She further submits that the medical evidence, i.e., MLR (Ex.PW9/B) has been ignored by the learned Courts below as the case material clearly reflects that the complainant-wife was severely beaten by the respondents and turned out of her matrimonial house along with her minor son on 24.11.2011. It was also proved on record that the complainant was coerced by the respondents to abort her child. Similarly, misappropriation of the dowry articles by the respondents has also been established on record by adducing the list of dowry articles (Ex.PW3/E) and the recovery memo (Ex.PW3/F).

6. *Per contra* learned counsel for respondents contends that the learned Courts below have passed the respective judgements of acquittal after

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duly considering the entire evidence on record and thus, they do not deserve any interference.

7. I have heard learned counsel for the parties and perused the paper-book with their able assistance. It transpires that after registration of FIR (supra), the complainant went back to her matrimonial home and lived there till 2011. During the said period, no allegation of dowry demand or cruelty was made by her till the date of alleged incident on 24.04.2011. Further, during the said period, respondent no.2 who is the mother-in-law of the complainant, filed a complaint wherein it was alleged that she was stripped naked and beaten on the street by her daughter-in-law. Even the husband of the complainant, i.e., respondent no.1 had levelled allegations against her qua theft of cash and jewellery from the house in 2003. Moreover, the allegations levelled by the complainant in her complaint are devoid of specificity despite her being a well-educated woman. Even the date of her marriage finds no mention in her complaint. Although, the dates and amounts were revealed by the complainant in her oral testimony, but she failed to attribute any specific role to the respondents. Further, the case of the prosecution remained unsubstantiated throughout as it failed to bring on record any evidence to corroborate the allegations made by the complainant. All the aforesaid facts, clubbed together, lead this Court to opine that there is no force in the arguments put forth by the learned counsel for the petitioner.

8. 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

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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.

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 criminal revision petition and the same stands dismissed.

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

(HARPREET SINGH BRAR)

JUDGE

15.07.2024

Ajay Goswami

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