

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-3237-2015

Date of Decision: April 16, 2024

RAJNI

...Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashwani Nagar, Advocate for
Mr. B.S. Tewatia, Advocate
for the petitioner

Ms. Geeta Sharma, DAG, Haryana

HARPREET SINGH BRAR, J. (ORAL)

1. This instant revision petition has been preferred against the judgement dated 04.06.2015 passed by learned Additional Sessions Judge, Palwal in appeal No. CRA/000098/2013 dated 01.04.2013 vide which the judgement dated 05.03.2013 and order of sentence dated 07.03.2013 passed by learned Chief Judicial Magistrate, Palwal convicting and sentencing respondent no.2 respectively, were set aside and he was, thereby, acquitted in case arising out of FIR No.219 dated 18.04.2006 registered under Sections 498-A, 406, 506 & 323 of IPC at Police Station- City Palwal.

2. The facts, in brief, are that the petitioner filed a complaint against respondent no.2 and one other co-accused who passed away during the trial and proceedings against him were dropped. It was alleged in the said complaint that the marriage of the petitioner was solemnized with respondent no.2 on 30.06.2001. Father of the petitioner gave sufficient dowry at the time of marriage. Soon after marriage, the joint family of respondent no.2 started harassing and beating her for more dowry. A demand of Rs.1,00,000/- and one motorcycle was made and later on, a plot of 112 sq. yards was demanded. When the petitioner refused, she was beaten mercilessly. Due to the said beating, the petitioner gave

birth to a dead child. Later on, the petitioner gave birth to a male child on 04.11.2003 upon which further gifts were given to the respondent and his family by her brother. When the petitioner gave birth to another child on 13.01.2005, she was sent to her parental home for a while by the respondent and his family but was brought back on 18.02.2006. Then, on 01.04.2006, while the petitioner was working in the kitchen, respondent no.2 along with the other co-accused entered the kitchen and slapped her and gave fist blows. Respondent no.2 further tried to set the petitioner on fire by pouring kerosene oil on her but the petitioner raised hue and cry about the same and was rescued by the neighbours. Finally, on 02.04.2006, the accused-responpdent refused to keep the petitioner in the matrimonial house due to which the petitioner filed the complaint upon which the case (supra) was registered and during the course of the investigation, dowry articles were recovered and respondent no. 2 along with co-accused Bijender was arrested. Respondent no.2 was charged under Section 498-A, 406, 323 & 506 of IPC and ultimately, he was convicted under the said penal provisions. The trial Court sentenced respondent no.2 to rigorous imprisonment for 6 months along with a fine of Rs.500/- for the commission of offence punishable under Section 498-A of IPC and further sentenced him to undergo rigorous imprisonment for 06 months each under Sections 406, 323, 506 of IPC and all the sentences were ordered to run concurrently. Respondent no.2 preferred an appeal against his conviction which was ultimately allowed and his conviction and sentence was set aside, thereby, acquitting him. Aggrieved by the acquittal of respondent no.2, the petitioner-complainant has approached this Court by way of the present revision petition.

3. Learned counsel for the petitioner contends that there are specific allegations against respondent no.2 for harassing petitioner-complainant and physically assaulting her for dowry. The petitioner was subjected to cruelty right

was turned out of her matrimonial house, even her slippers were snatched from her. Further, the judgement of conviction was passed by the learned trial Court after proper appreciation of the evidence on record which established the guilt of respondent no.1 beyond reasonable doubt. He further contends that the impugned order has been passed by the lower Appellate Court in most perfunctory manner and is liable to be set aside.

4. I have heard the learned counsel for the parties and carefully perused the record with their able assistance. It transpires that the entire case of the prosecution is mainly based upon the testimony of PW1-petitioner and PW3, who is her brother. Both PW1 and PW3 have made vague and bald allegations against respondent no.2 qua alleged dowry demand. Further, there are material contradictions in the said testimonies as far as the allegations of demand of plot measuring 112 sq. yards or other such demand of a Pulsar motorcycle. Regarding the allegations of cruelty, especially pouring of kerosene oil upon the petitioner by respondent no.2 and his family members on 01.04.2006, it was alleged by the petitioner that she was saved by the neighbours before she could be set on fire but the prosecution has failed to examine any such independent person from the locality. Even the Kerosene oil laden clothes of the petitioner were not seized by the concerned police. No such incident was reported to the concerned police. Further, the prosecution was unable to produce any medical record of the petitioner-complainant to corroborate the allegations levelled by her. As per Ex. PW4/B, the petitioner appears to have received her dowry articles back from respondent no.2. Further, the allegation regarding dowry articles are not specific enough to reveal as to which of the accused were entrusted with the said dowry articles. All the aforesaid facts clubbed together are sufficient for this Court to affirm the impugned judgement of acquittal.

5. 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.

6. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant-appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application and hence, the leave to appeal is denied.

(HARPREET SINGH BRAR)
JUDGE

16.04.2024
Ajay Goswami

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