



**CRM-24236-2016 in/and
CRR-2805-2016 (O & M)**

06.01.2016, whereby the appeal preferred against the aforesaid judgment stands dismissed in case bearing FIR No.426 dated 19.08.2010 registered under Sections 498-A, 406, 506 and 34 IPC at Police Station Civil Lines, Gurgaon.

2. The brief facts, germane from the report under section 173 Cr.P.C are that petitioner/complainant got married with Rajesh (respondent No.2 herein) on 02.12.1997 and her father had given sufficient dowry in the marriage, but her in laws were not satisfied. After some time they started harassing her for bringing less dowry. Her in-laws demanded Rs.5 Lacs for purchasing a plot but her father had failed to fulfill their demand. On dated 19.8.2010 complainant Meenakshi Yadav (petitioner herein) has wrote a complaint which was received by post in the police station, in which it was alleged by the complainant that on the occasion of Kua Pujan in the year 2002, her husband demanded car and her parents-in-law demanded Gold chain. Her father arranged money and gave Maruti 800 car, but her in laws were not satisfied and they started harassing her. Her in laws used to beat and abuse her daily. On 22.04.2010 at night time, her husband thrown her out of the matrimonial home. On 2.6.2010, when she was at her parental home, she came to know that her husband had loaded the dowry articles in a tempo and had gone somewhere. On next date, when she came to the matrimonial home, no one was present there. She further stated that the dowry articles are in the possession of her in laws, which may kindly be recovered and legal action be taken against the culprits/respondent Nos.2 to 5.

3. Learned counsel for the petitioner *inter alia* contends that a grave prejudice has been caused to the petitioner as the learned trial Court has not made any effort to use the coercive methods to procure the testimony of the



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investigating officer. Learned trial Court has failed to issue non-bailable warrants against the investigating officer and as such, the petitioner has been deprived of her right to prove her case to the hilt, by leading evidence in support of her respective claim. Learned counsel submits that the petitioner was never served. The process server had given a wrong report that she was not residing at the given address. A perusal of the Aadhar Card would show that she was residing at 1164/3, near CRPF Camp, Rajiv Nagar East, Gurgaon. As such, on this ground alone, the present petition is required to be allowed and the matter is required to be remanded back for fresh decision.

4. *Per contra*, learned senior counsel for respondent Nos.2 to 5 submits that the petitioner has conveniently given two different addresses for the reasons best known to her and the argument raised by learned counsel for the petitioner is contrary to the address given in the memo of parties in the present petition. On the one hand, she is saying that she is resident of aforementioned address, whereas in the memo of parties, she has given her address as R/o 925/3 Rajiv Nagar, Gurgaon. Furthermore, in the present case, the petitioner was represented right from the stage, when the private respondents had filed their bail application as discernible from page 33 of the paper book. Mr. Sanjeev Jain, Advocate had appeared for the petitioner right from the inception of the trial up to the appeal and his power of attorney is available on record as well and surprisingly, the petitioner along with her father was present outside the learned trial Court, in the Court premises and remained there for waiting the outcome of the Court proceedings on 10.09.2014. However, it is the admitted case that the clerk of her counsel had informed that evidence of prosecution has been closed and the private respondents have been



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acquitted and the address of the petitioner, at the relevant time, had been proved by private respondents by moving an application bearing No.CRM-9522 of 2019 that the petitioner was resident of said address since year 2017, which demolishes the entire edifice of the grounds taken by the petitioner in the present petition.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, this Court finds no ground in the arguments advanced by learned counsel for the petitioner.

6. Moreover, 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.

7. In view of the above discussion, 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

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interference. As such, there is no merit in the present revision petition and the same stands dismissed.

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

August 28, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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