

**CRM-A-673-2022 (O&M)****1****220 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-A-673-2022 (O&M)
Date of Decision: 31.07.2024****Gurwinder Kaur****...Applicant****Versus****Gurpreet Singh and others****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: - Mr. Ishpreet Singh, Advocate
for the applicant***********Harpreet Singh Brar, J. (Oral)****CRM-41874-2022**

The present application is filed under Section 5 of the Limitation Act, 1963, seeking condonation of delay of 57 days in filing the application under Section 378(4) of Cr.P.C. For the reasons mentioned in the application, the same is allowed and the delay of 57 days is condoned.

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1. The present application is preferred under Section 378(4) of the Cr.P.C. against the judgment of acquittal dated 02.03.2020 passed by learned Judicial Magistrate 1st Class, Zira in the case stemming from criminal complaint filed under Sections 406, 506, 307, 342, 498-A and 120-B of IPC.

2. Briefly, the facts as alleged are that the marriage of the applicant-complainant with respondent No.1-husband was solemnized on 19.11.2012 according to Sikh rites and rituals. Ample dowry articles were given to the respondents-accused and their relatives. The respondents-accused took possession



of the said articles and did not allow the applicant to use them. Soon after the wedding, it is alleged that the applicant was subjected to physical and mental harassment at the hands of the respondents-accused for bringing less dowry and for not giving a better car. The respondents-accused further demanded a sum of Rs. 8,00,000/-. The applicant was subjected to physical assault and the respondents-accused even tried killing the applicant by tying a rope around her neck. The applicant was rescued by her mother and was taken to Civil Hospital, Zira, where she was admitted. Subsequently, multiple *panchayats* were convened to resolve the matrimonial dispute but there was no break through. Thereafter, the mother of the applicant filed a complaint before the SSP, Ferozepur but the police did not take any action against the respondents-accused. Hence, the complaint before the Magistrate. Charges were framed under Sections 498A, 406, 506, 120-B of IPC. After assessing all material on record, the learned trial Court acquitted the respondent-accused vide judgment dated 02.03.20200.

3. Having heard the learned counsel for the applicant and after perusing the record of the case with his able assistance, it transpires that the allegations made in the application moved before the SSP, Ferozepur, were found to be false vide inquiry report (Ex. DX/8). In fact, three separate inquiries were conducted by the SHO, Police Station, Zira, In-charge, Women Cell, Ferozepur, and DSP, Zira. In all the inquiries, which were conducted independently, it was found that neither demand for dowry was made nor allegations of harassment or physical assault meted out by the respondents-accused were established. The *stridhan* articles and the gold ornaments are with the applicant as proved by the *panchayatnama* (Ex. DX/13). As a result, the factum of the dowry articles being specifically entrusted to the respondents-accused, who misappropriated them, cannot be conclusively



established. Specific entrustment is *sine qua non* for establishing the offence under section 406 IPC which is conspicuously missing in the present case.

4. Furthermore, no specific date or time has been mentioned with regard to the incidents of cruelty and harassment that the applicant was subjected to at the hands of the respondents-accused. The learned trial Court has rightly observed that it is a case of irretrievable breakdown of marriage, and all the allegations made by the applicant are purely out of spite. In these circumstances, there is no ground which justifies the interference of this Court.

5. 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** 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.

6. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants

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interference by this Court. As such, there is no merit in the present application and hence, the leave to appeal is denied.

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

31.07.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>