



211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2295-2018

Date of decision: 30.04.2024

Satwinderjit Kaur

...Petitioner

Versus

Dalbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. J.S. Virk, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition is preferred against judgment dated 20.02.2018 passed by learned Additional Sessions Judge, Jalandhar whereby appeal against judgment of acquittal dated 02.09.2015 passed by learned Sub Divisional Judicial Magistrate, Nakodar in FIR no. 126 dated 06.05.2010 registered under Sections 406, 498-A of the IPC, registered at Police Station Nakodar, Jalandhar, was dismissed.

2. Briefly, the facts are that the petitioner-complainant moved a written complaint dated 20.04.2010 to SSP, Jalandhar wherein she alleged that her marriage with respondent no.3-accused was solemnised on 19.02.2004 and her parents spent a sum of Rs. 8 lakhs at the time of her marriage. Ample dowry articles, including gold jewellery, a wrist watch, house hold articles etc., were given to the respondents-accused and their relatives. It is alleged that soon after the wedding, she was subjected to physical and mental harassment at the hands of the respondents-accused for the purpose of bringing more dowry. The respondents-accused allegedly tried to kill the petitioner-complainant by sprinkling kerosene oil upon her. In the year 2006, respondent no.3-accused went

abroad and the said trip was sponsored by the parents of the petitioner-



complainant after the respondents-accused raised a demand of Rs. 1 lakh from them. Subsequently, a compromise was effected between the parties, as per which the petitioner-complainant started residing separately from her in-laws family. Respondent-no.3-accused, meanwhile, returned home. The respondents-accused then started demanding a car from the petitioner and her family members and declared that till the time their demand is not fulfilled, they would not allow her to return to her matrimonial home. Hence, the complaint before the SSP, Jalandhar. On the basis of the complaint, the present FIR was registered against the respondents-accused.

3. After assessing all material on record, the learned trial Court acquitted the respondent-accused vide judgment dated 02.09.2015. Aggrieved by the same, the petitioner preferred an appeal before the learned Lower Appellate Court which was dismissed vide judgment dated 20.02.2018.

4. Learned counsel for the petitioner assails the judgment of the lower Appellate Court on the ground that it has mechanically decided the appeal of the petitioner and has upheld the observations of the of the learned trial Court without due application of mind and not recording any reasoned and concrete observations. The Courts below completely disregarded the fact that the charges of offences punishable under Sections 498-A and 406 of the IPC have been clearly and unimpeachably proved, thus leading to material irregularity and perversity.

5. Learned counsel further submits that the prosecution led ample evidence to prove the guilt of the respondents-accused. The testimonies of the complainant (PW-5), Ramandeep Singh (PW-6) and Sarabjit Singh (PW-7) were sufficient to establish the prosecution case against the respondents-accused.



6. Having heard the learned counsel for the petitioner and after perusing the record of the case with his able assistance, it appears that there is nothing in the judgements of the learned courts below to indicate perversity or misreading of evidence in their judgements. With regard to the offence punishable under Section 406 of IPC, it is incumbent upon the part of the prosecution to prove the factum of entrustment of the articles and their misappropriation with dishonest intention. In the present case, the complainant (PW-5) in her cross-examination, admitted that she resided with respondent no.3-accused, whereas her mother-in-law (respondent no.2) and father-in-law (respondent no. 1) stayed in their daughter's house situated at Village Bajuha Khurd. She further mentioned that she has been using the articles given to her by her parents at the time of her marriage. As a result, the factum of the petitioner being turned out of her matrimonial home or that the dowry articles were entrusted to the respondents-accused, who misappropriated them, cannot be conclusively established. Entrustment is *sine qua non* for establishing the offence under section 406 IPC which is conspicuously missing in the present case since the petitioner-complainant herself has been using the said dowry articles. Moreover, nothing has been brought on record to either provide the details of the dowry articles by way of a list or prove the purchase of the items entrusted by way of bills or invoices.

7. Furthermore, mere vague and omnibus allegations against all the members of her in-law's family cannot be the sole basis for convicting the accused under Section 498-A of IPC. No overt act or specific role has been attributed to the respondents-accused. Additionally, there are glaring contradictions in the testimony of the petitioner which renders the prosecution



case dubious. In her examination-in-chief, the petitioner deposed that her relationship with her in-laws remained alright for the first 2.5 years and soon thereafter her husband (respondent no. 3) went to Italy. In such a case, it cannot be said that the sum of Rs. 1 lakh given by the brother of the petitioner to fund the travels of respondent no.3-accused is a result of cruelty or harassment doled out to the petitioner by the respondents-accused. With respect to the allegations pertaining to the dousing of the petitioner in kerosene oil in order to kill her, the petitioner has neither disclosed any date when the alleged occurrence occurred nor has she attributed the said incident to any specific member of her in-laws' family. Lastly, maintenance to the tune of Rs. 25,000/- per annum paid by the father-in-law (respondent no.1) to the petitioner as well as providing a house for her residence has been duly admitted by the petitioner and his brother during evidence.

8. 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. (**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.

that learned counsel for the petitioner has failed to point out any perversity or illegality in findings recorded by the learned lower Appellate Court or the learned trial Court which warrants interference by this Court. As such, there is no merit in the present revision petition and the same is hereby dismissed.

(HARPREET SINGH BRAR)
JUDGE

30.04.2024
Ajay Goswami

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