

226

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1270-2021 (O&M)
Date of decision: 16.07.2024

Seema Rani

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. G.S. Sandhu, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present revision petition is preferred against judgment dated 06.01.2020 passed by learned Additional Sessions Judge, Jalandhar, whereby appeal against judgment of acquittal dated 25.01.2019 passed by learned Sub Divisional Judicial Magistrate, Phillaur, in FIR No.172 dated 22.09.2009 under Sections 406 and 498-A of IPC, registered at Police Station Phillaur, Jalandhar, was dismissed.

2. Briefly, the facts are that the marriage between the petitioner-complainant and respondent No.2 was solemnised on 02.03.2006. Ample dowry articles were given to respondent No.2-accused and his relatives, as respondent No.2 was coming from Italy. The dowry articles as well as the *stridhan* were kept

2024:PHHC:091813



by in-laws of the petitioner with themselves. Respondent No.2 left for Italy merely 10 days after the wedding. Thereafter, her in-laws began making demands for Rs.5,50,000/-. Since the petitioner could only gather an amount of Rs.2,00,000/-, her in-laws began harassing her. It is alleged that the petitioner-complainant was subjected to physical and mental harassment at the hands of the family members of respondent No.2 for the purpose of bringing more dowry.

3. After assessing all the material on record, learned trial Court acquitted respondent No.2-accused vide judgment dated 25.01.2019. Aggrieved by the same, the petitioner preferred an appeal before learned lower appellate Court, which was also dismissed vide judgment dated 06.01.2020.

4. Learned counsel for the petitioner assails the judgments of learned Courts below on the grounds that they wrongly, erroneously and without considering and appreciating the evidence on record, acquitted respondent No.2-accused. The prosecution has duly proved the factum of marriage and entrustment of dowry articles by the parents of the petitioner to respondent No.2-accused, his parents and other relatives. Offence punishable under Section 406 IPC stands proved, as both oral and documentary evidence support the version of the petitioner. The statement of the complainant, her parents and other prosecution witnesses have fully proved that the dowry articles were handed over to the accused for the use of the petitioner, however, all the said articles were misappropriated by respondent No.2 and her in-laws. The inconsistencies in the depositions of the prosecution witnesses were minor in nature and deserve to be

2024:PHHC:091813



disregarded. Moreover, the prosecution brought on record the list of dowry articles, the recovery memo, photographs and the invoices of jewellery bought by the petitioner. This further strengthens the prosecution case. The petitioner had produced a detailed list of dowry articles with the averment of specific entrustment, which was not rebutted in any manner, by respondent No.2-accused. Additionally, the offence of cruelty as punishable under Section 498-A IPC stands duly proved from the statements of the prosecution witnesses, who have clearly stated that the petitioner was maltreated and tortured on account of bringing less dowry.

5. Having heard 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 learned Courts below to indicate perversity or misreading of evidence. With regard to the offence punishable under Section 406 of IPC, it is incumbent upon the prosecution to prove the factum of entrustment of the dowry articles and their misappropriation with dishonest intention. In the present case, the petitioner deposed that a sum of Rs.1,00,000/- in cash was paid to respondent No.2 by her father. However, as per the version of the father and mother of the complainant, who were examined as PW-2 and PW-3 respectively, a sum of Rs.1,00,000/- in cash was given to Surjit Ram for the purchase of furniture. Such contradiction strikes at the root of the matter and renders the prosecution case suspicious. Specific entrustment and misappropriation of the dowry articles needs to be decisively proved. Further, a perusal of the trial Court record depicts that the

2024:PHHC:091813

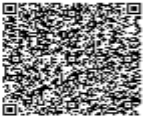


dowry articles were neither demanded back by the petitioner nor the accused refused to hand over the same to her or her family members. As a result, the factum of the dowry articles being specifically entrusted to respondent No.2-accused, who misappropriated them, cannot be conclusively established. Also, although recovery of the dowry articles as per the list has been made yet and the recovered articles were never produced before learned trial Court.

7. Furthermore, mere vague and omnibus allegations cannot be the sole basis for convicting the accused under Section 498-A of IPC. No specific date or time has been mentioned with regard to the incidents of cruelty and harassment that the petitioner was subjected to at the hands of respondent No.2-accused. Additionally, there is no medical evidence to prove the allegations of physical assault or the petitioner was given any injury, when respondent No.2-accused was in India. Respondent No.2-accused stayed in India for a limited time. As per the stand of the petitioner, respondent No.2-accused left for Italy within 08 days of getting married. At the time, when the demand for Rs.2,00,000/- was made, respondent No.2-accused was in Italy. Resultantly, the prosecution has failed to conclusively prove the essential ingredients to convict respondent No.2 for the commission of offence under Section 498-A of IPC.

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

2024:PHHC:091813



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 Vs. 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 learned 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 learned lower appellate Court or learned trial Court, which warrants interference by this Court. As such, there is no merit in the present revision petition and the same is dismissed.

[HARPREET SINGH BRAR]
JUDGE

16.07.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No