



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

226

CRR-2556-2022 (O&M)
Date of Decision: 14.08.2024

KAVITA

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gursimran Walia, Advocate for
Mr. Baljeet Beniwal, Advocate for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)**CRM-44998-2022**

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 22 days in filing the revision petition.

For the reasons mentioned in the application, the same is allowed and the delay of 22 days in filing the revision petition is condoned.

CRR-2556-2022

1. The present revision petition has been preferred against the impugned judgment of acquittal dated 10.05.2022 passed by learned Additional Sessions Judge, Faridabad qua respondent Nos.2 & 3, whereby, the judgment dated 06.11.2017 and order of sentence dated 09.11.2017 passed by Judicial Magistrate Ist Class, Faridabad in the case arising out of FIR No.226 dated 15.05.2014 under Sections 498A, 406, 506 of IPC at Police Station-Mujjesar, Faridabad vide which respondent Nos.4 & 5 were acquitted whereas respondent Nos.2 & 3 were convicted, was set aside.

2. Briefly, the facts are that the petitioner moved a complaint before the concerned police, wherein, it was alleged that she was married to



respondent No.2 whereas her younger sister was married to respondent No.3 (brother of respondent No.2) on 01.03.2006. At the time of their marriage, various dowry articles were given to the accused. Soon after marriage, the accused started maltreating the petitioner and her sister for more dowry in form of one Alto car and Rs.2 lacs in cash. When father of the petitioner conveyed his inability to meet the said dowry demand, he was told to take his daughters back. After 2 months, when the accused persons refused to take the petitioner and her sister back to their matrimonial house, the father of the petitioner succumbed to their demand and gave Rs.50,000/- to them. However, the accused only brought back the petitioner to her matrimonial house but left her sister at the parental house since their dowry demand was not fulfilled. The petitioner continued to suffer at the hands of the accused and even lost her new born son in May 2008 due to lack of medical care. In August 2008, the petitioner was severely beaten by the accused and ousted from her matrimonial house. Thereafter, her father again arranged a sum of Rs.1 lac in cash and gave it to the accused. Another son was born to the petitioner on 27.05.2010 but the accused refused to mend their ways and again threw her out along with her son. Despite the *Panchayat* being convened several times to settle their dispute, the accused simply refused to take the petitioner and her sister back to their matrimonial house. The aforesaid complaint culminated into FIR (*supra*).

3. Consequently, the accused were charge-sheeted under Sections 498-A, 406, 506 of IPC, to which they pleaded not guilty and claimed trial. Trial ensued and ultimately, respondent Nos.4 & 5 (father-in-law and mother-in-law) were acquitted of the charges framed against them whereas respondent Nos.2 & 3 were acquitted of the charges framed under Sections 406, 506 of



IPC but convicted under Section 498-A and sentenced to undergo rigorous imprisonment of 1 year along with a fine of Rs.2,000/-. Subsequently, respondent Nos.2 & 3 preferred an appeal before the learned lower Appellate Court and the same was allowed, leading to their acquittal. Aggrieved, the petitioner-complainant has approached this Court by way of the present petition.

4. Learned counsel for the petitioner *inter alia* contends that the evidence on record is sufficient to establish the guilt of the private respondents-accused. Specific allegations have been levelled against the accused which have been duly corroborated by the testimony of the prosecution witnesses. It is further contended that the learned Court below erred in acquitting the accused despite presence of unimpeachable evidence.

5. I have heard learned counsel for the petitioner and perused the paper-book with his able assistance. It transpires that the case of the complainant-petitioner is plagued by lack of specificity. No specific role has been attributed to any of the accused persons. Nowhere in her deposition has the petitioner mentioned any specific date or time qua the allegations levelled by her. In addition, the petitioner did not place on record any bills of purchase regarding the alleged dowry articles. Further, no independent witness has been examined to corroborate the case of the petitioner. Moreover, the allegations of cruelty and physical harassment remain unproved for want of any medical evidence. Above all, the FIR (supra) was lodged by the petitioner in 2014 whereas the allegations pertain to year 2010, thereby, rendering the case of the petitioner barred by limitation.



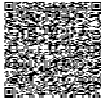
6. Furthermore, the power of the Appellate/Revisional Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the 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. A two Judge Bench of Hon'ble Supreme Court in case of **Chandrappa (supra)** has laid down the parameters with regard to the power of appellate Court while dealing with an appeal against an order of acquittal. Speaking through Justice C.K. Thakker, the following was held:

"42. From the above decisions, in our considered view, the following general principles regarding powers of appellate Court while dealing with an appeal against an order of acquittal
emerge;

(1) An appellate Court has full power to review, re-appreciate and reconsider the evidence upon which the order of acquittal is founded;

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate Court on the evidence before it may reach its own



conclusion, both on questions of fact and of law;
(3) Various expressions, such as, 'substantial and compelling reasons', 'good and sufficient grounds', 'very strong circumstances', 'distorted conclusions', 'glaring mistakes', etc. are not intended to curtail extensive powers of an appellate Court in an appeal against acquittal. Such phraseologies are more in the nature of 'flourishes of language' to emphasise the reluctance of an appellate Court to interfere with acquittal than to curtail the power of the Court to review the evidence and to come to its own conclusion.

(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court."

8. 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 the learned Courts below which warrants interference by this Court. As such, there is no merit in the present revision petition and the same stands dismissed.

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

14.08.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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