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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-A-102-2022

Date of decision: 15.04.2024

Rajni Bala @ Radhika Mehra

....Applicant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Promila Nain, Advocate with
Mr. Amit Thakur, Advocate
for the applicant.

HARPREET SINGH BRAR, J.

1. This instant application under Section 378(4) Cr.P.C. is preferred against the judgement of acquittal dated 14.09.2021 passed by learned Judicial Magistrate Ist Class, Ludhiana in complaint case No. COMI/35758/2013 dated 28.05.2010 filed under Sections 406, 498-A, 506/34 of IPC at Police Station-Division No.2, Ludhiana, whereby, the respondent no.1 was acquitted of the charges framed against him.

2. The facts, in brief, are that complaint (supra) was filed by the applicant-wife against her husband- respondent no.1, father-in-law- respondent no.2, Mother-in-law-respondent no.3 and sister-in-law- respondent no.4. It was alleged that marriage of the applicant was solemnized with respondent no.1 on 26.11.2005. Sufficient dowry was given to the respondents at the time of the marriage. Soon after marriage, the respondents started demanding more dowry from the applicant and even pressurized her to abort her child. The applicant

gave birth to a female child on 19.08.2007 which further infuriated the respondents and they also started demanding share in the property belonging to the father of the applicant. When the applicant refused to accede to their demand, the respondents started maltreating her and even turned her out of the matrimonial house multiple times. On one occasion, the respondents also tried to kill her by strangulation. On 08.09.2008, the respondents started demanding Rs.50,000/- along with her parental property but when she refused, she was given fist blows and turned out of the matrimonial house. The respondents usurped her belongings and refused to return her certificates as well. Then, on 24.02.2010, the applicant moved a complaint to the concerned police but due to their inaction, filed the present complaint (supra). The trial ensued and only respondent no.1 was summoned by the learned trial Court to face trial under Sections 498-A, 406 of IPC after appreciating the preliminary evidence. Ultimately, respondent no.1 was acquitted of the charges framed against him in the present case. Aggrieved, the complainant has approached this Court by way of the present petition.

3. I have heard the learned counsel for the applicant and carefully perused the record with his able assistance. As far as the offence punishable under Section 406 of IPC is concerned, apart from the testimony of the applicant there is no other evidence to prove entrustment of the dowry articles to respondents. Further, the list annexed by the applicant herself undermines the case set up by her as it pertains to gifts to relatives at the time of marriage but not her *Istridhan*. Regarding offence under 498A IPC, merely bald allegations have been levelled by the applicant. Further, during the same time, she had herself suffered a statement before the concerned Family Court in petition under

Section 9 of Hindu Marriage Act filed by respondent no.1 that she would go with respondent no.1 whenever he would come to pick her up. She did not mention anything about the alleged cruelty meted out to her. Further, the entire testimony of the applicant lacks specificity and reveals material improvements. No medical evidence has been adduced by her. Further, the applicant tried to conceal the fact from the learned trial Court that during the inquiry conducted by the concerned police in the applications moved by her, it was found that there was no dispute with regard to any dowry demand. The dispute was just regarding some certificates belonging to the applicant. Interestingly, a further perusal of the record shows that respondent no.1 was granted divorce from the applicant on account of cruelty to which he was subjected to by the applicant by filing multiple unnecessary complaints against him. Furthermore, there are material contradictions in the statements of other witnesses examined by the prosecution. All the aforesaid facts clubbed together are sufficient for this Court to affirm the order under challenge in the present petition.

4. Furthermore, 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.

5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant-appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application and hence, the leave to appeal is denied.

(HARPREET SINGH BRAR)
JUDGE

15.04.2024
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No