

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

CRR-2509-2019
Date of Decision: 07.05.2024

PARKASHI

...Petitioner

Versus

STATE OF HARYANA AND ANR.

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Pooja Chhabra, Advocate for
Mr. Rahul Deswal, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This instant revision petition has been preferred against the judgment dated 05.07.2019 passed by learned Additional Sessions Judge, Panipat in appeal No. CRA/240/2015 dated 06.11.2015 upholding the judgment of acquittal dated 02.06.2015 passed by learned Judicial Magistrate Ist Class, Panipat qua respondent no.2 in case arising out of FIR No.50 dated 07.04.2010 registered under Sections 498-A, 406, 506 & 323 read with Section 34 of IPC at Police Station-Ishrana, Panipat.
2. The facts, in brief, are that petitioner is the mother of the complainant Jag Preeti (since deceased) who filed a criminal complaint against respondent no.2-accused Shishpal and his mother Kartar Devi and brother Manipal. It was alleged in the said complaint that Jag Preeti was married to respondent No.2 on 16.11.2008 and at the time of their marriage, sufficient dowry articles were given. Soon after the marriage, the aforesaid accused

started taunting and harassing the complainant for bringing less dowry. Respondent no.2 demanded a motorcycle, whereas, his mother and brother demanded gold chain and gold ring. The complainant narrated the entire story to her parents when she went to her parental house after one week of marriage but she was settled back in her matrimonial home in November, 2008. But the accused did not stop harassing her and respondent no.2 even threatened to commit suicide in case his demand of a motorcycle was not fulfilled and eventually, on 14.03.2009, he jumped from the roof of his house due to which he remained bed-ridden for several months. At that time, the present petitioner gave a cash amount of Rs.30,000/- to the accused. Then, on the pretext of their dowry demand not being fulfilled, the accused turned out the complainant from her matrimonial house on 11.12.2009. The aforesaid complaint was initially presented in the Court of learned Illaqa Magistrate and was sent to S.H.O. Police Station Ishrana, Panipat under Section 156(3) of Cr.P.C. for registration of FIR. At that time, the complainant gave a statement that she did not want to proceed against her mother-in-law- Kartar Devi and brother-in-law- Manipal. Thereafter, the FIR (supra) was registered, in consequence of which, a trial ensued. Respondent no.2 was charged for commission of offences punishable under Sections 498-A, 323, 406, 504 and 506 of IPC and ultimately, acquitted of the same. Aggrieved, the present petitioner preferred an appeal against the judgment of acquittal dated 02.06.2015 passed by the learned trial Court since the complainant Jag Preeti had passed away on 21.05.2014. However, the appeal preferred by the petitioner was also dismissed being devoid of merits. Aggrieved, the petitioner has approached this Court by way of the present revision petition.

3. Learned counsel for the petitioner contends that there are specific allegations of dowry demand and harassment against the respondent No.2

which stood corroborated by the deposition of complainant-Jagpreeti (PW1) and her mother-Parkashi (PW3) appended as Annexure P-1 and Annexure P-2, respectively. He further submits that specific dates of alleged occurrences along with the specific role of respondent no.2 have been mentioned by the complainant in her examination-in-chief. He further submits that both the learned Courts below should have ignored minor discrepancies in the statement of the complainant as the allegations stood duly substantiated by her testimony. It is further contended that the learned Courts below erred in recording that no complaints were made to the concerned police whenever the complainant was made to suffer by the accused as family disputes being of private nature are not generally reported to the police every time. Even in the present case, the complainant specifically stated in her cross-examination that the only reason she did not get herself medically examined after being beaten by the accused was to save her marriage. He further contends that the impugned order has been passed by the lower Appellate Court in most perfunctory manner and is liable to be set aside.

4. I have heard the learned counsel for the parties and carefully perused the record with their able assistance. It transpires that testimonies of the complainant PW1 and her mother PW3, i.e., the present petitioner gravely suffer from lack of specificity and are nowhere near to establishing the guilt of respondent No.2 for the alleged acts. The fact that the complainant chose to withdraw her complaint qua her mother-in-law Kartar Devi and brother-in-law Manipal is perplexing despite alleging that they demanded gold ornaments from her and also gave her beatings. Further, as far as the allegations of beatings meted out to the complainant are concerned, no specific date or instance was mentioned by the complainant or her mother in their testimonies.

No medical evidence was placed on record by the complainant in order to

substantiate her claim. No evidence in support of the allegation that respondent no.2 jumped from the roof of the house in order to force the complainant to bring more dowry has been placed on record and neither did the complainant produce any evidence to show that respondent no.2 had ever demanded a sum of Rs.30,000/- allegedly given to him after sustaining injuries. Furthermore, the testimony of the complainant as well as the present petitioner are devoid of specific date or instance in regard to the complainant being subjected to cruelty by respondent no.2. Further, the complainant herself stated in her cross-examination that she did not take away her dowry articles from the matrimonial house as the said articles were in a damaged condition. Also, no details of specific entrustment of dowry articles have been mentioned by the complainant or her mother. The evidence adduced by the complainant is insufficient to prove that the complainant was ever criminally intimidated by respondent no.2 as no exact place, date or instance regarding such threat has been disclosed. All the aforesaid facts, when clubbed together, are sufficient for this Court to affirm the judgment under challenge in the present petition.

5. 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.

6. 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 Courts below which warrants interference by this Court.

7. As such, there is no merit in the present petition and the same stands dismissed.

07.05.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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