



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

**CRR-2873-2019(O&M)
Date of Decision: 07.08.2024**

Nisha

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Hardeep Singh Dhillon, Advocate
for the petitioner.

HARPREET SINGH BRAR, J.(ORAL)

1. The present revision petition is preferred against judgment of acquittal dated 06.07.2019 passed by the learned Additional Sessions Judge, Ambala whereby the appeal against the judgment of acquittal dated 30.01.2017 passed by the learned Additional Chief Judicial Magistrate, Ambala in the case stemming from FIR No. 401 dated 07.08.2013 registered under Sections 406, 498-A, 323, 506, 34, 120-B IPC at Police Station Baldev Nagar, has been dismissed.

2. Briefly, the facts are that the marriage between the petitioner and respondent No.2 was solemnized on 04.11.2009 in accordance with Hindu rites and rituals. However, soon thereafter, the respondents-accused began harassing the petitioner in lieu of dowry demand and categorically demanded a car. The petitioner remained with her husband in Kaithal upto 20.11.2009 after which they moved to Mumbai, where the maltreatment continued. In December, 2009, respondent No.2 left the petitioner in Cheeka where



respondents No.3 to 5, her in-laws family, beaten and abused her. In January, 2010, respondents No.3 to 5 beaten the petitioner so badly that she lost consciousness. Ultimately, on 04.01.2010, the petitioner informed about the harassment to her parents and *panchayats* were convened 2-3 times, where the accused admitted their guilt and apologized. Unfortunately, this did not deter them from this abusive behavior. In the year 2011, the petitioner was beaten and turned out of the matrimonial home. Consequently, she filed a petition under Section 9 of the Hindu Marriage Act, 1955 but respondent No.2 was not willing to rehabilitate her. The petitioner arrived at Bikaner on 07.07.2013, where the accused were staying as respondent No.2 was posted there, however, instead of apologizing, the accused beaten up the father of the petitioner, who had to be hospitalized.

4. Having heard the learned counsel for the petitioner and after perusing the record with his able assistance, it transpires that in spite of multiple allegations of physical assault, no medical evidence is available to corroborate the same. The petitioner relied on document Mark-D prepared at the Air Force Hospital to prove her injuries, however, the same is a photostat copy, not available in original. Moreover, the said document does not even form a part of the final report under Section 173 Cr.P.C. However, a perusal of the same also does not reflect any injuries on the person of the petitioner. The marriage between the parties was solemnized in the year 2009 while the present FIR was lodged in the year 2013. Despite multiple allegations of continued physical assault, the petitioner did not pursue any legal action against the respondents. Admittedly, she did not make any complaints to the Air Force authorities either. While the petitioner alleged that a compromise (Mark-I) was affected between the parties in furtherance of a complaint moved



by the petitioner, the documents qua the same (Mark-A to Mark-J) are only available on the record as photostat, as such they remain unproven as per law. Regardless, a perusal of the same would indicate that the compromise pertained to providing monthly expenses and a mobile to the petitioner.

5. As far the allegations pertaining to offence under Section 405 IPC are concerned, it appears that entrustment does not stand adequately proved. In fact, PW1-ASI Malkiat Singh, in his cross examination, admitted that the ownership of the washing machine belongs to the respondents as a bill qua the same has been placed on the record. Further, according to the report of Station Commander, the petitioner left the Air Force Station, along with all her belongings, on 09.07.2013, in presence of Assistance Security Guard.

6. 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. (*See H.D. Sundara and others vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram vs. 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 the trial Court.

7. In view of the discussion above, 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 any



interference. Accordingly, the present revision petition is dismissed, being bereft of any merit.

8. Pending miscellaneous application(s), if any, also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

07.08.2024
manisha

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