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218 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARHCRM-A-1375-2023 (O&M)
Date of Decision: 05.11.2024

BAKSHINDER KAUR

...Applicant

V/S

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Arora, Advocate for the applicant.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)CRM-41594-2023

This is an application under Section 5 of the Limitation Act read with Section 482 of Cr.P.C. for condonation of delay of 36 days in filing the application seeking leave to appeal.

For the reasons mentioned in the application, same is allowed and delay of 36 days in filing the application seeking leave to appeal is condoned.

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1. The present application is preferred under Section 378(4) of the Cr.P.C. against the judgment of acquittal dated 05.06.2023 passed by learned Judicial Magistrate Ist Class, Patti, District Tarn Taran, in complaint under Sections 406, 498-A of Indian Penal Code and Sections 3, 4 and 5 of Dowry Prohibition Act at Police Station Bhikhiwind.

2. The brief facts of the complaint are that marriage of the complainant was solemnized with accused Deepak Singh on 08.02.2012 and out of the said wedlock one female child namely Sargundeeep Kaur was born. Accused persons i.e. husband of the complainant and her mother-in-law and father-in-law, did not allow the complainant to use her *Istri Dhan* and they tried to misappropriate the same and they taunted the complainant

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on account of bringing less dowry and when husband of the complainant went to his duty then the accused in connivance with each other treated the complainant as servant of the house and did not allow her to eat anything and turned her out of the matrimonial home. On 01.05.2012, when her husband came back from duty, he along some respectable persons came to the paternal house of the complainant and took her to her in-laws house with the promise that he and his family members shall not tease and torture the complainant. On 15.05.2012, all the accused persons again gave beatings to the complainant and locked her in one room. When the parents of the complainant, came to know about the said fact, they took the complainant back to her paternal house. In the last week of September, 2012, relatives got compromised the matter and sent back the complainant to her in-laws house and in November, 2012 her husband went back to his duty and thereafter other accused persons again started torturing her. The accused persons left the complainant at her parental house at the time of pregnancy. On 23.07.2013 a female child was born and all the expenses were borne by the parents of the complainant. Hence the present complaint.

3. Having heard the learned counsel for the applicant and after perusing the record of the case with his able assistance, it transpires that learned Court below has opined that complainant has been consistent while deposing against the accused-Deepak Singh regarding maltreatment given to her. Learned Court below has further observed that accused Deepak had failed to protect his wife (complainant) and take care of her and thus his act, amounts to cruelty. On the other hand, learned Court below has further observed that there is no evidence available on record to prove that

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respondents No. 2 and 3 i.e. father-in-law and mother-in-law of the complainant forcefully gave any medicine to the complainant to get the pregnancy aborted. Moreover, complainant and other witnesses only deposed specifically against Deepak Singh that he came back from his duty and gave severe beatings to the complainant, due to which her health got critical and she fell down in the bathroom and bone of her right ankle got fractured. Thus, complainant and other witnesses only raised allegations against Deepak Singh and they did not depose anything specific against remaining accused. Thus, learned Court below has rightly come to the conclusion that there is no material available on record to prove that respondents No. 2 and 3 caused any act of cruelty towards the complainant and allegations against them are omnibus in nature. Secondly, learned Court below has observed that complainant has failed to produce any bills/invoice of the dowry articles, allegedly given at the time of marriage, nor any witness has been examined by the complainant, who could prove that alleged dowry articles were purchased from him at the time of marriage. Moreover, CW-3 Gurmeet Singh (father of the complainant) in his cross-examination has deposed that before marriage, Deepak Singh and his family did not make any demand of dowry from him. Thus, learned Court below has rightly opined that giving of some gold ornaments, clothes and gifts at the time of marriage, does not come within the purview of dowry as defined in Section 2 of Dowry Prohibition Act rather these are customary gifts given at the time of marriage.

4. 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

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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** 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.

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.

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

(HARPREET SINGH BRAR)

JUDGE

05.11.2024

Ajay Goswami

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