



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

CRR-1027-2022 (O&M)
Date of decision: 24.07.2024

Panchma

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Mamta Panwar, Advocate
for the petitioner

HARPREET SINGH BRAR, J.

1. The present revision petition is preferred against judgment dated 05.10.2021 passed by the learned Additional Sessions Judge, Fast Track Court, Sonipat whereby the judgment of acquittal dated 20.12.2018 passed by learned Judicial Magistrate Ist Class, Sonipat, was upheld in FIR No. 63 dated 23.12.2013 registered under Sections 498-A, 323, 506, 34 IPC at Women Police Station, Sonipat .

2. Briefly, the facts are that the marriage between the petitioner and respondent No.2 was solemnised on 11.02.2010, in accordance of Hindu rites and rituals. However, a few days into the marriage, the in-laws of the petitioner began harassing her for not bringing adequate dowry. The in-laws family began making demands for a car make Honda City and Rs. 10,00,000/- in cash. On 18.02.2010, the father of the petitioner gave Rs. 1,00,000/- in cash to respondent No.2 to maintain peace in the matrimonial house of the petitioner. In spite of the same, the petitioner was turned out of her matrimonial home on 02.08.2010. On 27.01.2011, the petitioner gave birth to a male child but respondent No.2 refused to accept them. However, the sister-in-law (*jethani*) of

the petitioner took her back to the matrimonial home on 17.08.2013 but the



cruel treatment of the in laws continued. As a matter of fact, litigation under Section 9 and 13 of the Hindu Marriage Act, 1955 are currently pending between the couple.

3. Having heard the learned counsel for the petitioner and perusing the record of the case with his able assistance, it transpires that FIR(supra) was registered after an unexplained delay of four months from the last day of alleged incident of beatings, which also stands admitted by PW7- Devender Nagpal. Moreover, the MLR dated 17.08.2013 does not bear the name of the petitioner and even if it is assumed to be her, it cannot be relied upon as the doctor who prepared it has not been examined to prove its authenticity. Further, the financial status of respondent No.2 is better than that of the petitioner as they run a petrol pump and own two cars. Further still, the petitioner, while appearing as PW1, admitted that the grandmother of respondent No.2, who has also been arraigned as an accused, is 80-85 years old and had suffered a fracture. Also, co-accused namely Gopaldas, Indu, Thakurdass, Tulsi Rani, Jyoti and Dayawanti were exonerated during investigation and the final report under Section 173 Cr.P.C. was only presented against the accused. As such, the allegation against the family of respondent No.2 regarding harassing the petitioner for dowry seems untenable.

4. Additionally, it was respondent No.2 who had moved an application for restoration of conjugal rights under Section 9 of the Hindu Marriage Act, 1955, which was allowed. It was in absence of any other option that divorce petition was ultimately filed at Baghpal, U.P. In her cross-examination, PW5- Manjeet Kaur, has deposed that the petitioner was habitual of leaving the matrimonial home after quarrelling with respondent No.2.

Finally, the list of dowry items taken into custody by the police, as mentioned



by PW9- SI Shakuntla, stands unproven as it bears no signatures and its author also remains unknown. The investigating officer also failed to join any independent witness in the investigation or enquire into the financial status of respondent No.2. As such, the prosecution case seems laden with lacunae and does not inspire any confidence.

5. 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.

6. In view of the discussion above, this Court finds that learned counsel for the petitioners 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.

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

(HARPREET SINGH BRAR)
JUDGE

24.07.2024
Neha

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