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211**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRR-1716-2017 (O&M)
Reserved on: 08.05.2024
Pronounced on:13.05.2024****Kavita Sharma****... Petitioner****Vs.****State of Haryana and another****... Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Lekh Raj Sharma, Advocate
and Mr. Abhishek Sharma, Advocate
for the petitioner.

Mr. Vikas Bharadwaj, AAG Haryana

*********HARPREET SINGH BRAR, J.****CRM-15149-2017**

The present application is preferred under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 113 days in filing the present revision petition.

For the reasons mentioned in the application, the same is allowed and the delay of 113 days in filing the present revision petition is condoned.

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1. The present revision petition has been preferred against the impugned judgment dated 25.10.2016 passed by the learned Additional

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Sessions Judge, Karnal, whereby the judgment of conviction dated 12.08.2013 passed by the learned Chief Judicial Magistrate, Karnal in FIR No. 106 dated 30.03.2005 registered under Sections 498-A, 406, 323, 506 IPC at Police Station Civil Lines, Karnal, was set aside and respondent No.2 was acquitted.

2. Briefly, the facts of the case are that the marriage between the petitioner and respondent no.2 was solemnised on 12.11.2000. However, after two days of the marriage, her in laws family began taunting her on the insufficiency of the dowry articles brought by her. The family was expecting a Honda City but only a Maruti car was presented as dowry. Respondent no.2 also gave her beatings on the instigation of his parents. The petitioner gave birth to a female child on 05.01.2002 but the gifts sent by her parents were found to be insufficient and she was given beatings again. She was also restrained from attending her brother's marriage which took place on 13.12.2012 under threat that she will not be let into the matrimonial home again. The petitioner was sent back to her parents house in November 2003, when she was pregnant with her second child, as the in laws expressed their inability to bear the delivery charges. She gave birth to a male child on 26.11.2003 and the expenses for the same were borne by her parents. She returned to her matrimonial home on 05.11.2004 but was not allowed to enter. Several panchayats were convened but to no avail.

3. Learned counsel for the petitioner inter alia contends that the learned lower Appellate Court has fallen into error by reversing the judgment

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of conviction rendered by the learned trial Court. The narrative of the complainant-petitioner who appeared at PW1, regarding the acts of cruelty and unlawful dowry demands was corroborated by PW2-mother of the petitioner. The divorce petition filed by respondent No.2 was dismissed and as such, the FIR (supra) cannot be considered to be filed as a counterblast. The matter at hand is not a case of normal wear and tear of married life but that of harassment and cruelty.

4. On the other hand, learned State counsel submits that the lower Appellate Court has rightly acquitted the respondent of the charges framed against him.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it is evident that the allegations of beating are not supported by particular dates. Further, in the divorce proceedings, the brother of the petitioner has categorically admitted that the Maruti car was given as per their own wish and not on demand from respondent No.2 or his family. The petitioner had also not filed any complaints regarding unlawful dowry demands till the divorce petition was filed. Admittedly, no list of dowry articles, bearing signatures of the parties was prepared at the time of the marriage. The petitioner has herself admitted that the gifts given at the time of the birth of her two children were presented by her parents of their own accord.

6. Furthermore, PW2-mother of the petitioner deposed that she was informed by a neighbour that the petitioner was being harassed,

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however, she could not disclose the identity of the said informant on cross-examination. She has also specifically stated that the articles given at the time of marriage were gifted voluntarily. Both PW1 and PW2 have also admitted that they have not demanded the dowry articles back from respondent No.2 and his family. The investigating officer-PW3 has neither joined any neighbours in the investigation or obtained a list of dowry articles or bills thereof.

7. Moreover, 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.

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8. In view of the above discussion, this Court finds that learned counsel for the petitioner has failed to point out any perversity or illegality in findings recorded by the learned lower Appellate Court which warrants any interference. As such, there is no merit in the present petition and accordingly, the same stands dismissed.

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

10. Pending miscellaneous applications, if any, stand disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

13.05.2024
Ajay Goswami

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