

CRM-A-3762-MA-2018 (O&M)
Date of decision: 29.08.2024

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

CRM-32640-2021

The present application has been filed under Section 482 Cr.P.C. for placing on record the statement of applicant/appellant (PW-5) and exemption from filing certified copy of the same.

In view of the averments made in the application, the same is allowed and statement of applicant/appellant (PW-5) is taken on record subject to all just exceptions and the applicant/appellant is exempted from filing certified copy of the same.

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1. The present application is preferred under Section 378(4) of Cr.P.C. against the judgment of acquittal dated 23.09.2015 passed by learned Judicial Magistrate 1st Class, Malerkotla, in the case stemming from FIR, bearing No.19 dated 20.03.2012 under Sections 406/498-A/506 of the IPC registered at Police Station City Ahmedgarh District Sangrur as well as



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judgment dated 03.10.2018 passed by the learned Additional Sessions Judge, Sangrur vide which appeal filed by the applicant before the lower Appellate Court, was also dismissed.

2. Briefly, the facts are that the FIR was registered on the statement of the complainant/applicant, namely Zeenat wherein it was alleged that she was married to respondent No.4-Mohd. Shabdam on 22.04.2011. It was alleged that all the private respondents/accused used to harass her on the pretext of bringing less dowry and demanded a car and Rs.1.5 lac in cash but when she told them that her parents are not in a position to give more dowry and have already spent money in the marriage beyond their capacity, the private respondents/accused resorted to physical violence and turned her out of matrimonial home and therefore, the applicant approached the police authorities.

3. Having heard the learned counsel for the applicant and after perusing the record of the case with his able assistance, it transpires that there is nothing in the judgments of the learned Courts below to indicate perversity or misreading of evidence. Complainant examined Boota Khan as PW-1 in support of her case but he stated during his cross-examination that accused persons did not give any beatings to the complainant in his presence. The complainant/applicant herself examined as PW-5 and stated that the respondents/accused harassed her and given beatings to her for bringing less dowry, whereas, the allegations of giving beatings to her have not been proved and the allegations of demand of dowry against accused/respondents No.2 & 3 appear to be the result of exaggeration as both the said accused persons cannot be said to be the beneficiary of the alleged demand of car or computer in any



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manner. Nothing has been brought on record by the prosecution which indicates that in-laws of the applicant/complainant demanded any dowry or given any beatings to her. Further, there is no medical evidence to prove the allegations of physical assault to the applicant/complainant at the hands of respondents No.2 & 3.

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 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 appellant has failed to point out any perversity or illegality in findings recorded by the learned Courts below 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

29.08.2024
Neha

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