



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

221

CRM-A-192-2019

Date of Decision: 21.08.2024

Dharminder Kaur

...Applicant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: - Mr. L.S. Sidhu, Advocate
for the applicant.

Harpreet Singh Brar, J. (Oral)

1. The present application is preferred under Section 378(4) of the Cr.P.C. against the judgment of acquittal dated 04.07.2018 passed by learned Sub Divisional Judicial Magistrate, Khadur Sahib, in the case stemming from criminal complaint, bearing No. COMI-38-2015, filed under Sections 406 and 498-A of IPC.

2. Briefly, the facts as alleged are that the marriage of the applicant-complainant with Partap Singh was solemnized on 14.01.2010 with great pomp and show. Ample dowry articles were given to the husband and his family members. One son was born out of the wedlock. However, soon after the wedding, it is alleged that the applicant-complainant was subjected to harassment at the hands of her in-laws for bringing less dowry and demanded a car from the applicant. The husband of the applicant and respondent No.2-accused, who is the mother-in-law of the complainant physically assaulted her and turned her out of the matrimonial home. In October, 2011 the in-laws of



the applicant refused to accommodate her in the matrimonial house. Hence, the complaint before the Magistrate.

3. Having heard the learned counsel for the applicant and after perusing the record of the case with his able assistance, it appears that there is nothing in the judgement of the learned trial Court to indicate perversity or misreading of evidence. With regard to the offence punishable under Section 406 of IPC, it is incumbent upon the part of the prosecution to prove the factum of entrustment of the articles and their misappropriation with dishonest intention. In the present case, there is neither any averment in the complaint nor any evidence adduced which shows that the respondent No.2-accused ever raised a demand for dowry, at the time of marriage. Moreover, nothing has been brought on record to prove the purchase of the items, if entrusted, by way of bills or invoices. Furthermore, mere vague and omnibus allegations against respondent No.2-accused, who is an aged lady and residing alone, cannot be the sole basis for convicting her under Section 498-A of IPC. The prosecution failed to bring forth any document or medical record to substantiate the allegation of physical assault.

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*

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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 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.

21.08.2024
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(HARPREET SINGH BRAR)
JUDGE

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