



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CRM-A-177-MA-2018
Decided On: 03.12.2024

PARVEEN KUMARI

...Applicant-Appellant

Versus

AMBER KUMAR

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Rashika Bansal, Advocate
for the applicant-appellant.

HARPREET SINGH BRAR, J. (ORAL)

1. This instant application under Section 378(4) Cr.P.C. is being preferred against the judgment of acquittal dated 09.11.2017 passed by learned Chief Judicial Magistrate, Gurdaspur while dismissing the private complaint filed by the present applicant under Sections 498A, 406, 34 of IPC.

2. The facts, in brief, as alleged by the applicant-complainant are that her marriage was solemnized with the respondent-accused on 25.10.2011 as per Hindu rites. Out of their wedlock, a girl child was born. At the time of their marriage, expenses totaling Rs.5 lakh were borne by the parents of the applicant. In addition, various articles including a gold chain, gold ring, wrist watch and 5 dresses were given to the respondent. *Istridhan* given to the applicant by her parents was kept in the custody of the accused persons. Soon after marriage, the applicant started facing harassment at the hands of the respondent and other accused on account of bringing insufficient dowry. The harsh treatment meted out to the applicant further aggravated to physical beatings. The brother of the applicant, who was serving in Indian Army, tried to intervene and even made a complaint to his senior officials on 23.05.2012.

His application was forwarded to SSP, Gurdaspur which was further referred



to Women Cell for inquiry, however, the matter ended in a compromise on 28.06.2012 after the accused persons tendered an apology. Thereafter, the applicant gave birth to a girl child on 10.07.2012 which caused the respondent and other accused to turn back to their sinister ways. On 07.11.2012, the accused persons gave merciless beatings to the applicant with intention to eliminate her, where, the respondent gave kick and stick blows on her abdomen, arms, shoulder and back. The applicant, along with her minor daughter, were confined in a solitary room without food and water but they managed to escape somehow. Thereafter, the applicant went to the Civil Hospital, Gurdaspur, where she was medico-legally examined. Then on 12.11.2012, the applicant approached SSP, Gurdaspur for taking action against the accused persons but her prayer fell on deaf ears. Aggrieved, the applicant filed a private complaint before the learned Court.

3. The applicant-complainant led her preliminary evidence before the trial Court, relying upon which the respondent/husband was summoned under Section 498-A IPC whereas the complaint against the co-accused was dismissed vide order dated 21.11.2016. In pre-charge evidence, she examined four witnesses including herself. Upon finding a prima facie case against the respondent, charge under Section 498-A was framed to which he pleaded not guilty and claimed trial. The applicant did not lead any evidence in her after-charge evidence. Statement of the respondent was recorded under Section 313 Cr.P.C. wherein he plead innocence and false implication. In his defence evidence, the respondent examined only one witness. Ultimately, the trial Court proceeded to dismiss the complaint filed by the applicant for lack of



merit. Feeling distressed, she has approached this Court by way of the present application/appeal.

4. I have heard the learned counsel for the applicant and carefully perused the record with her able assistance. It is pertinent to note at the outset that the applicant-complainant has remained unsuccessful in establishing the guilt of the respondent. As per Ex.C5, which is the copy of DDR No.12 dated 13.11.2012, wherein, the applicant got her statement recorded to the effect that on 08.11.2012, at 10.00 AM, the respondent started abusing her and also gave *danda/stick* blow to her body. This in fact is obverse to the version put forth by her qua the alleged occurrence in her complaint. Therein, not even a whisper has been made regarding the alleged beatings given to the applicant on the intervening night of 07/08.11.2012 as mentioned in the complaint. It transpires that the applicant has herself vitiated her case. Further perusal shows that the applicant tried to conceal the fact from the learned trial Court that she does not own any plot of land but the respondent-accused placed on record the certified copy of *Jamabandi* for the year 2014-2015. The said document shows that the applicant is the owner of two parcels of land. As per the report (Ex. D3) called by the learned Magistrate under Section 202 Cr.P.C. from SHO, P.S. City, Gurdaspur, the applicant, who is the owner of a *Kothi/house* at Prem Nagar, wanted her husband/respondent to live there as it is near to her parental home. The aforesaid fact tips the scale in favour of the respondent as his defence becomes more probable. The testimony of CW-3 Dr. Harleen Kaur, Medical Specialist, Civil Hospital, Gurdaspur qua the injuries caused to the applicant becomes irrelevant when the applicant has herself contradicted her entire version. In light of the aforesaid facts, this Court finds itself standing firmly



with the observation recorded by the learned trial Court that the applicant-complainant failed to establish the guilt of the respondent-accused beyond reasonable doubt.

5. Furthermore, 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 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.

6. 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.

03.12.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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