



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

CRR-360-2020

Date of decision: 23.09.2024

Jeewan Jyoti

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kuldip Sanwal, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J.

1. The present revision petition is preferred against judgment dated 27.09.2019 passed by learned Additional Sessions Judge, Pathankot whereby appeal against judgment of acquittal dated 11.01.2018 passed by learned Chief Judicial Magistrate, Pathankot in FIR no. 57 dated 12.09.2012 registered under Sections 406, 498-A, 506, 34 of the IPC, at Police Station Taragarh, Pathankot, was dismissed.

2. Briefly, the facts are that the petitioner-complainant moved a written complaint dated 04.04.2011 to SSP, Pathankot wherein she alleged that her marriage with respondent no.4-accused was solemnised on 21.10.2009. Ample dowry articles were given to the private respondents-accused and their relatives. Soon after the wedding, it is alleged that the petitioner-complainant was subjected to physical and mental harassment at the hands of the respondents-accused for the purpose of bringing more dowry since respondent no.4-accused is a government employee and earning a handsome salary. The



respondents-accused demanded a car and jewellery from the petitioner-complainant. The respondents-accused also demanded Rs. 5 lakhs in cash. Further, the respondents-accused misappropriated her jewellery and did not allow her to access the same. Subsequently, a *panchayat* was convened to resolve the matrimonial differences, however, the respondents-accused remained adamant on their dowry demand and ultimately on 16.06.2010, they turned her out of the matrimonial house. Hence, the written complaint was moved before the SSP, Pathankot. On the basis of the complaint, the present FIR was registered against the respondents-accused.

3. After assessing all material on record, the learned Trial Court acquitted the respondent-accused vide judgment dated 11.01.2018. Aggrieved by the same, the petitioner-complainant preferred an appeal before the learned Lower Appellate Court which was dismissed vide judgment dated 27.09.2019.

4. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it appears that there is nothing in the judgments of the learned courts below 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, the prosecution adduced a list of articles allegedly given by the parents of the complainant to her in-laws, at the time of marriage. However, the petitioner, who was examined as PW-2 deposed during her cross-examination that no dowry list was either prepared by her or her family members at the time of marriage. The list was prepared only when the complaint was moved before the SSP on the asking of the police. Further, there



is no mention as to which article was specifically entrusted to which of the accused. Specific entrustment and misappropriation of the property needs to be decisively proved. Moreover, the father of the complainant (PW-3), has categorically stated that no dowry articles were give at the time of marriage or thereafter. Also, as per the testimony of the Investigating Officer (PW-6), no dowry articles were recovered from the house of the respondents-accused. All the articles belonging to the petitioner were voluntarily handed over to the petitioner during the anticipatory bail proceedings of the respondents-accused. Therefore, the ingredient of refusal to handover the dowry articles has also not been satisfied. Moreover, nothing has been brought on record to prove the purchase of the items entrusted by way of original bills or invoices.

5. Furthermore, mere vague and omnibus allegations against all the members of her in-law's family cannot be the sole basis for convicting the accused under Section 498-A of IPC. No specific date or time has been mentioned with regard to the incidents of cruelty and harassment that the petitioner was subjected to at the hands of the respondents-accused. Additionally, there is no medical evidence to prove the allegations of physical assault. The father of the complainant has himself stated that the respondents-accused never demanded a car or Rs. 5 lakhs. Lastly, the petitioner was turned out of the matrimonial home on 16.06.2010, however, the complaint was filed on 04.04.2011 i.e. after more than ten months of leaving the matrimonial home. No reason has been stated by the prosecution so as to justify the delay.

6. 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 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.

7. In view of the facts and circumstances of the case, 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 or the learned Trial Court which warrants interference by this Court. As such, there is no merit in the present revision petition and the same is hereby dismissed.

(HARPREET SINGH BRAR)
JUDGE

23.09.2024
Neha

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