



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRA No.23 of 1996

CNR No. ODHC010006801996

(In the matter of an application under Section 378(4) of the Criminal Procedure Code, 1973)

Sanjulata Bhoi @ Jena

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Appellant

-Versus-

Ramakanta @ Basudev Bhoi and others

Respondents

For the Appellant : Ms. Sartika Das, Advocate

For the Respondents : (None)

CORAM:

THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 02.07.2026 : Date of Judgment: 30.07.2026

S.S. Mishra, J. The present criminal appeal is arising out of the judgment of acquittal dated 25.09.1995 passed by the learned J.M.F.C., Bhadrak in I.C.C. Case No.171 of 1994.

2. None appeared for the respondents. Heard Ms. Sartika Das, learned counsel for the appellant.

3. The appellant filed a complaint case against the respondents, inter alia, alleging that she married with respondent No.1, Ramakanta Bhoi, on 10.05.1990. It is alleged that, at the time of marriage, household articles, gold ornaments, and a sum of Rs.5,000/- in cash were given to the respondents towards their dowry demand.



It is further alleged that, a few days after the marriage, the respondents demanded an additional sum of Rs.10,000/- for the purpose of starting a stationery shop. It is alleged that the respondents persistently pressed for the said amount. Although the appellant's father requested them to allow some time to arrange the money, the respondents allegedly paid no heed to his request and instead subjected the appellant to physical and mental cruelty. It is further alleged that she was assaulted on several occasions and was repeatedly driven out of her matrimonial home.

The appellant has further alleged that, on the day preceding her leaving from the matrimonial home, the respondents, in furtherance of their common intention, attempted to set her on fire by pouring kerosene over her. Out of fear, she left the matrimonial home on 03.12.1993. Before leaving, she was allegedly assaulted and threatened that she would be allowed to return to the matrimonial home only after bringing the demanded sum of Rs.10,000/-.

It is further alleged that, after returning to her parental home, her father, accompanied by some villagers, approached the Basudevpur Police Station and reported the incident. However, as no action was allegedly taken by the police and respondent No.1



subsequently contracted a second marriage, the appellant was constrained to file the present complaint case.

4. The learned trial Court, upon a careful appreciation and analysis of the oral and documentary evidence adduced by the appellant, passed the impugned judgment acquitting the respondents of the charges levelled against them. Aggrieved by the said judgment of acquittal, the appellant has preferred the present appeal.

Along with the appeal, the appellant filed CRMC No.3132 of 1995 seeking leave of this Court to challenge the judgment of acquittal dated 25.09.1995 passed by the learned J.M.F.C., Bhadrak in I.C.C. Case No.171 of 1994. Vide order dated 18.01.1996, this Court granted leave to appeal against the impugned judgment of acquittal. Hence, the present appeal has been registered.

5. Learned counsel for the appellant by relying upon the evidence of the witnesses urged that the appellant could successfully adduce consistent evidence regarding demand of dowry of Rs.10,000/- by the respondents. It was further submitted that the evidence on record unequivocally establishes that the appellant (P.W.1) was subjected to cruelty and was ultimately driven out of her matrimonial home on her inability to satisfy the said demand. According to the learned counsel,



the findings recorded by the learned trial Court are contrary to the evidence available on record and suffer from misappreciation of evidence. It was also argued that the learned trial Court has failed to take into consideration the documentary evidence adduced by the appellant. Since the appellant examined as many as six witnesses in support of her case, it was contended that their evidence, read as a whole, clearly establishes the commission of offences punishable under Section 498-A of the I.P.C. and Section 4 of the Dowry Prohibition Act.

6. I have carefully gone through the evidence brought on record and in the light of the evidence, the appreciation of the evidence by the trial Court has also been analysed by this Court. The findings of the learned trial Court are largely reflecting in paragraph-9 of the impugned judgment, which reads as under:-

“9. Now it has to be ascertained, whether the accused persons were constantly torturing the complainant to bring the unlawful demand of Rs.10,000/-. In this regard, it is pertinent to discuss the evidence of the P.Ws. It appears from the evidence of P.W.1 and P.W.3 happy conjugal life for about 4 years and in those four years P.W.1’s father and relations have visited her. But none of them have stated that P.W.1 ever had informed about torture on her on the issue of Rs.10,000/- demand of dowry. Whatever evidence available on the score is that of P.W.1, who has stated that on 3.12.93 itself, she was demanded with



Rs.10,000/- and on that day she was assaulted and driven out. But surprisingly P.Ws.2, 3 and 4's statement reveals that 15 days prior to the final abandonment of P.W.1 being assaulted, P.W.1 had come to her father's house and disclosed about the demand of Rs.10,000/- by the accused persons and P.W.1 on such occasion was taken by her father to the house of accused persons. Curiously, this part of the evidence adduced by the P.Ws.2, 3 and 4 falls to the ground, when the evidence of P.W.1 is scrutinised. Because P.W.1 in para-13 of her cross-examination in clear terms has admitted that after marriage on 3.12.93, she went to her father's house for the first time that besides, the evidence of P.Ws.4, 5 and 6 are quite contrary and new to the case of the complainant and mostly of hear-say nature. Moreover, while perusing the petition averments in respect to torture on P.W.1 by the accused persons for the demand of Rs.10,000/- and P.W.1's frequent coming to her father's house being driven out by the accused persons and her father taking and leaving her to the house of the accused persons, are not in the evidence of the witnesses. Leaving apart, the assault on 3.12.93 and P.W.1's police report and medical examination too has not been established by the complainant.

Thus, while assessing the allegation and evidence of the complainant, I find that the complainant has signally failed to establish constant torture on P.W.1 by the accused persons on the issue of bringing Rs.10,000/- as dowry. Rather the complainant's evidence itself discloses that she was living happily with the accused persons after marriage for a period of four years and during her such stay she was not at all tortured or was not pressed to bring dowry of Rs.10,000/-. It is the evidence that on 3.12.93 itself the dowry demand was made and on that date itself she was assaulted and driven out. Therefore the evidence of the so called father of the complainant and other witnesses, about prior to torture on P.W.1 on the issue of dowry and the time to time expelling her from the house by the accused persons and the father of P.W.1 taking her to leave in the house of the



accused persons on such occasions is totally false. Hence, from all the circumstances as discussed in the foregoing, I arrive to an irresistible conclusion that the complainant has out rightly failed to prove the constant torture on her."

7. It is seen from the evidence of the appellant and P.W.3 and other relatives of the appellant that the marriage between the appellant and the respondent No.1 remained happy for about four years and thereafter, the misunderstanding cropped up, resulting in filing of the complaint. The marriage between the appellant and the respondent No.1 admitted to have been solemnized on 10.05.1990 whereas the complaint case came to be filed only in the year 1994. It appears from the record that there is no grievance or torture coming forth from the evidence of the appellant or their family members between these four years. It was all of a sudden in the year 1994, the complaint case has been filed. Therefore, the learned trial Court on right appreciation of the evidence returned the aforementioned findings. The findings so recorded by the trial Court appears to be a plausible one.

8. Before interfering with an order of acquittal, this Court is also required to bear in mind the well-settled principles governing an appeal against acquittal. In ***Tulasareddi @ Mudakappa & Anr. v. State of Karnataka & Ors.***, reported in **2026 INSC 67**, the Hon'ble



Supreme Court has reiterated that where two reasonable conclusions are possible on the basis of the evidence on record, the appellate Court should not disturb the finding of acquittal recorded by the trial Court by replacing its opinion. It has further been held that if the view taken by the trial Court is a possible view based on the evidence available on record, the appellate Court cannot overturn the order of acquittal merely because another view is also possible. Interference is warranted only when the judgment of acquittal suffers from patent perversity, is based on misreading or omission of material evidence, or where compelling and substantial reasons exist showing that the acquittal is clearly unreasonable. The relevant part of the aforesaid judgment is reproduced herein for ready reference:-

“29. From the aforesaid decisions rendered by this Court, it can be said that if two reasonable conclusions are possible on the basis of the evidence on record, the Appellate Court should not disturb the findings of acquittal recorded by the Trial Court. Further, if the view taken is a possible view, the Appellate Court cannot overturn the order of acquittal on the ground that another view was also possible. The following principles have to be kept in mind by the Appellate Court while dealing with the appeals against an order of acquittal:

(a) whether the judgment of acquittal suffers from patent perversity;



- (b) whether the judgment is based on misreading/omission to consider the material evidence on record;*
- (c) an order of acquittal is to be interfered with only when there are “compelling and substantial reasons” for doing so. If the order is “clearly unreasonable”, it is a compelling reason for interference.*
- (d) the appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;*
- (e) if the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and*
- (f) the appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.”*

Equally, in ***Mallappa & Ors. v. State of Karnataka***, reported in **2024 INSC 104**, the Hon'ble Supreme Court has held that the presumption of innocence, which every accused enjoys during trial, gets strengthened and concretized once the trial culminates in an order of acquittal. Consequently, while exercising appellate jurisdiction against an acquittal, a higher threshold is required to rebut such reinforced presumption. Unless the findings recorded by the trial Court are manifestly unsustainable or perverse, the appellate Court ought to exercise great restraint in upsetting the acquittal. It was held thus:-



“24. We may firstly discuss the position of law regarding the scope of intervention in a criminal appeal. For, that is the foundation of this challenge. It is the cardinal principle of criminal jurisprudence that there is a presumption of innocence in favour of the accused, unless proven guilty. The presumption continues at all stages of the trial and finally culminates into a fact when the case ends in acquittal. The presumption of innocence gets concretized when the case ends in acquittal. It is so because once the Trial Court, on appreciation of the evidence on record, finds that the accused was not guilty, the presumption gets strengthened and a higher threshold is expected to rebut the same in appeal.”

9. The appellate jurisdiction against an order of acquittal is, therefore, not intended to facilitate a fresh substitution of the opinion of the trial Court merely because a different view on the evidence is conceivable. As reiterated by the Hon'ble Supreme Court in ***Tulasareddi @ Mudakappa & Anr. v. State of Karnataka & Ors.*** (*supra*), the appellate Court must first satisfy itself that the judgment of acquittal is vitiated by patent perversity, misreading or non-consideration of material evidence, or is so unreasonable that no prudent person could have arrived at such a conclusion. Equally, as held in ***Mallappa & Ors. v. State of Karnataka*** (*supra*), the reinforced presumption of innocence following an acquittal places a higher threshold upon the appellate Court before upsetting the



findings recorded by the trial Court. Thus, unless the conclusions reached by the trial Court are wholly unsustainable on the evidence available on record, judicial restraint rather than substitution of views remains the governing principle in an appeal against acquittal.

Applying the aforesaid principles to the present case, this Court finds that the appreciation of evidence by the learned trial Court cannot be said to be either perverse or wholly unreasonable. Merely because another view may also be possible, the same cannot furnish a ground to reverse the acquittal in exercise of appellate jurisdiction.

10. The impugned judgment of acquittal was delivered on 25.09.1995. Three decades have already been lapsed in between. During this long interval, the presumption of innocence flowing from the acquittal has remained undisturbed. There is nothing on record to suggest that the respondents were involved in any other criminal case thereafter and, therefore, the presumption of innocence which stood reinforced by the order of acquittal has continued to remain in their favour. At this distant point in time, the absence of compelling and substantial reasons warranting interference, reversal of the acquittal would itself occasion serious prejudice and would be a travesty of justice. At this belated stage, presumption of innocence prevailed in



favour of the respondents for more than 30 years, as they were acquitted by the Court below. Reversing such presumption at this stage would not only be harsh, but it would be against the cardinal principle of reformatory criminal jurisprudence. This Court, therefore, finds no legal or factual justification to unsettle the well-reasoned judgment of acquittal passed by the learned trial Court.

11. In view of the aforementioned, the Criminal Appeal stands dismissed.

(S.S. Mishra)
Judge

The High Court of Orissa, Cuttack.
Dated the 30th July, 2026/ Swarna

Signature Not Verified

Digitally Signed
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