

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 470 of 2004**

Rajiya Begum, aged about 28 years, D/o Abdul Aziz, R/o.
Karbala Road, Bilaspur (C.G.)

---- Applicant**Versus**

1. Riyaz Khan, age 30 years, son of Late Abdul Jabbar Khan.
2. Rehana Begum, wife of Ishaq Ahmed, age 30 years
3. Irshad Ahmad, son of Late Abdul Jabbar Khan, age 39 years.
4. Rayeesa Begum, D/o. Late Abdul Jabbar Khan, age 28 years,
5. Nayeema Begum, wife of Abdul Nayeem, age 40 years
6. Anisha Begum, age 28 years, D/o. Abdul Jabbar Khan,

All are resident of -Ghasiyapara, Rajendra Nagar, Bilaspur
(Chhattisgarh)

7. The State of Chhattisgarh, through : the District Magistrate,
Bilaspur (C.G.)

---- Non-applicants

For Applicant:	Shri P.P. Sahu, Advocate.
For Respondents No. 1 to 6:	Shri R.M. Solapurkar, Advocate.
For Respondent No. 7/State:	Shri Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****07/10/2015**

(1) Applicant is complainant. On her complaint, the concerned police station registered the offence punishable under Section 498-A read with Section 34 of the Indian Penal

Code against the non-applicants No. 1 to 7 and they were convicted by the trial Court for the aforesaid offence and sentenced to undergo rigorous imprisonment of two years and fine of Rs. 500/-.

(2) On appeal being preferred by non-applicants No. 1 to 7, the Additional Sessions Judge by its order impugned dated 26.05.2004 allowed the appeal and reversed the judgment of conviction into judgment of acquittal. Against which, instant criminal revision has been filed the applicant/complainant.

(3) Mr. P.P. Sahu, counsel for the applicant, while referring to the statements of Najma Begum (PW-1), mother of complainant & Rajiya Begum (PW-3) would submit that the finding recorded by the learned Additional Sessions Judge is apparently contrary to evidence available on record and, as such, the finding being perverse, judgment of acquittal deserves to be set aside.

(4) On the other hand, counsel for the non-applicants No. 1 to 7 as well as learned counsel for the State would submit that learned Sessions Judge has rightly held that ingredients of Section 498-A IPC are not proved against the non-applicants No. 1 to 7 and acquitted them of the aforesaid offence, which does not call for any interference by this Court under its revisional jurisdiction.

(5) In order to comprehend the challenge to the attack made to the judgment of acquittal, it would be profitable to have a quick look over the legal parameters laid down by their Lordships of

the Supreme Court for interfering with the scope of revisional jurisdiction.

(6) The Supreme Court in case of **Anjanappa v. State of Karnataka**¹ has held that order of acquittal will have to be disturbed if it is perverse. Para 9 of the report states as under:-

“9.It is well settled that an order of acquittal is not to be set aside lightly. If the view taken by the trial court is a reasonably possible view, it is not to be disturbed. If two views are possible and if the view taken by the trial Court is a reasonably possible view, then the appellate court should not disturb it just because it feels that another view of the matter is possible. However, an order of acquittal will have to be disturbed if it is perverse. We have examined the trial court's order of acquittal in light of above principles. We are of the considered opinion that the High Court was justified in setting it aside as it is perverse.”

(7) Turning back to the facts of the case, it would appear that trial Court convicted the respondents No. 1 to 7 on the allegation that non-applicants demanded Rs. 40,000/- as dowry and also some property relying upon the testimony of the prosecution witnesses.

(8) On appeal being preferred, learned Sessions Judge, by its impugned order, reversed the judgment of conviction of the trial Court finding serious contradictions and omissions in the statements of prosecution witnesses and the delay in lodging the First Information Report and the complainant's maternal grandmother has also not been examined.

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(9) In the written complaint (Ex.P-1) filed by the complainant and statements of relatives of the complainant, there is serious inconsistency and there is general allegation of demand of dowry against the respondents No. 1 to 7 without specific date and place of the alleged demand.

(10) Shakeet Ahmed (PW-7), who is maternal uncle of the complainant, has not supported the case of the prosecution. Likewise, Tufail Ahmed (PW-6) - *Molvi* and relative of the complainant, who got the *Nikah* performed, has only said that husband of the complainant has demanded money from her but it has not stated that dowry has been demanded by her husband. Likewise, Najma Begum (PW-1), mother of complainant has stated that dowry is not prevalent amongst the Muslims.

(11) Thus, after having ascertained the legal position with regard to scope of interference in revision with the order of acquittal and taking into consideration the extent of delay in lodging the First Information Report and other facts and circumstances of the case; it cannot be held that learned Sessions Judge has committed illegality in reversing the judgment of acquittal; thus, this Court is of the opinion that there is no manifest legal error in judgment of the acquittal recorded by the trial Magistrate and keeping in view the parameters laid down by the Supreme Court in the aforesaid case, I do not consider it a fit case where this Court should re-appreciate the entire evidence on record or it is not a case where the view

taken by the appellate court is so arbitrary or bears manifest error requiring interference taking into consideration the parameters laid down by their Lordships of the Supreme Court in the above referred cases and, therefore, judgment of acquittal passed by the Court of Session is held to be unassailable.

(12) As a fall out and the consequence of the aforesaid discussion, the revision is held to be devoid of merit and is, therefore, dismissed.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-
