

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2547 of 2013 (O & M)
Date of Decision: 23.07.2015.

Kavita Devi

... Petitioner.

Versus

State of Haryana and others

... Respondents.

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Chanderhas Yadav, Advocate for the petitioner.

Paramjeet Singh, J.

Challenge in the present criminal revision is to judgment dated 04.03.2013 passed by learned Additional Sessions Judge, Jhajjar whereby judgment dated 26.09.2011 passed by the learned Judicial Magistrate Ist Class, Jhajjar has been upheld and accused-respondents have been acquitted of the charges levelled against them.

In brief, the facts relevant for disposal of instant revision are to the effect that the instant case was registered on a written complaint Ex. PW1/A of complainant-Kavita Devi levelling allegations against all the family members of her in-laws for demand of dowry articles and for committing cruelty. It was also alleged in the complaint that they had made a demand of dowry, poured kerosene oil over her and suddenly her brother, namely, Tej Ram along with Umed Singh Pehalwan came to her and she went away with them to her parental house at village Rehduwas on 01.02.2007. Thereafter on 18.03.2007 the matter was compromised before the Deputy

Superintendent of Police and she came back to her in-laws house on 09.05.2007. Again she was beaten up and thrown out of her in-laws house with a direction to bring money pertaining to her share in the agricultural land of her parents. On the basis of her statement, FIR No. 92 dated 26.07.2007 was registered. Investigation was set into motion. The accused were arrested. After completion of investigation, challan against the accused persons was presented before the Court.

In support of its case, the prosecution examined complainant-Kavita Devi as PW1, Ram Phal as PW2, Dalel Singh (Retd. Insp.) as PW3, Tej Ram as PW4 and Baram Saroop as PW5. Thereafter, prosecution closed its evidence.

Statements of accused under Section 313 Cr.P.C. were recorded. All the incriminating evidence appearing against the accused was put to them. They denied the same and pleaded false implication. However, the accused did not lead any evidence in their defence.

The trial Court, vide judgment dated 26.09.2011 finding no prima-facie case against the accused persons, acquitted them from the charges levelled against them. Against that, complainant Kavita Devi preferred appeal before Additional Sessions Judge, Jhajjar, who also upheld the judgment of acquittal. Hence, this criminal revision.

I have heard learned counsel for the petitioner and perused the record.

Learned counsel for the petitioner vehemently contended that the trial Court has wrongly acquitted the accused persons. Further contended that both the Courts below have shown patent illegality in acquitting the accused persons without considering the legal aspect of the case as well as evidence on record has not been

considered, legal inference which should have been drawn has been left out and supporting evidence has been left out of consideration. The acquittal of the accused by both the Courts below is a result of mis-reading and mis-interpretation of the evidence. Therefore, the judgment dated 04.03.2013 passed by learned Additional Sessions Judge, Jhajjar and judgment dated 26.09.2011 passed by learned Judicial Magistrate 1st Class, Jhajjar are liable to be set-aside as the same are erroneous in law as well as against the evidence on record.

I have considered the contentions of learned counsel for the petitioner and perused the record.

The Trial Court as well as the learned Appellate Court has considered the evidence on record led by the prosecution. Both the Courts have recorded a finding that the complaint is a counter blast to a petition for divorce filed on 18.05.2007. It has also come on record that as per the version of the complainant in her complaint, the demand of dowry was raised by her in-laws in the presence of her father, other relatives including Smt. Nirmala Devi, member of Municipal Council, an independent witnesses and Parvesh Jangra, another witness cited but both these witnesses were not examined to corroborate this fact. Both the Courts below recorded a concurrent finding that the complaint is false and frivolous and the prosecution has failed to establish its case against the accused persons beyond any reasonable doubt.

Moreover, I am afraid, while exercising my revisional jurisdiction, I cannot re-appreciate the evidence. This is not a case where an important piece of evidence has been left out from consideration by the Courts below while deciding the case.

It is well settled that even if two views are possible on the

appreciation of evidence available on record, the view taken by the lower Appellate Court while acquitting the accused must prevail and this Court should not substitute its own view for the view taken by the lower Court.

For the reasons stated above and finding no compelling and substantial ground to interfere in findings of acquittal recorded by the Courts below, this petition becomes devoid of any merit and is dismissed in limine.

July 23, 2015.
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(PARAMJEET SINGH)
JUDGE