

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-396-2013 (O&M)
Date of decision: 06.10.2015

Satwant Kaur

... Petitioner

Vs.

State of Haryana and ors.

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Amit Kashyap, Advocate for
Mr. Rajinder Goyal, Advocate
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

Mr. Ashish Gupta, Advocate for
Mr. R.K. Gupta, Advocate
for respondents No.2 to 4.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J.

Feeling aggrieved against the impugned judgment dated 13.08.2012 passed by learned Sessions Judge, Kaithal, whereby appeal of the petitioner was dismissed, upholding the impugned judgment of acquittal dated 12.12.2008, passed by learned Chief Judicial Magistrate, Kaithal, petitioner has approached this Court, by way of instant criminal revision petition.

Brief facts of the case, as recorded by learned Sessions Judge in para 2 of the impugned judgment, are that the complainant Satwant Kaur filed

a criminal complaint against the respondents-accused before the learned Illaqa Magistrate for the commission of offences punishable under Sections 406, 498-A of the Indian Penal Code ('IPC' for short). The same was forwarded to the SHO, Police Station City Kaithal for investigation and registration of the case under Section 156 (3) of the Code of Criminal Procedure ('Cr.P.C.' for short). On the basis of that complaint, the present case was registered. In the said complaint, the complainant alleged that she was married with accused No.1 (Baljinder Singh) on 18.06.1997 as per Anand Karaj at Siwan, District Kaithal. Thereafter, the complainant lived as wife with accused No.1 at Jind upto 25.06.1997 when she came back to village Siwan to her parental house. On 07.07.1997, she was taken back to the matrimonial home by accused No.1 and 2. She further alleged that accused No.2 & 3 are her parents-in-law. The parents had spent a sum of Rs.2,00,000/- on her marriage and gave sufficient articles to her in dowry. All the jewellery articles and clothes were entrusted to accused No.3 by the father of complainant. The cash amount was entrusted to her husband and other articles were entrusted to her father-in-law, in the presence of Man Singh son of Kartar Singh, resident of Village Harnoli and Daler Singh son of Lal Singh, resident of Village Baknor. It is further alleged that on 08.07.1997 just on the next day when the complainant was taken back to the matrimonial home, she was given beatings by all the accused and was turned out of the matrimonial home. They raised demand of a colour television, Hero Honda Motorcycle, gold chain and gold karrah. All the accused were not happy with the dowry given at the time of marriage. The family members of the complainant convened a panchayat to persuade the respondents-accused and settle the complainant in the matrimonial home but

in vain. On 15.03.1998, the complainant along with her father was going to Sabzi Mandi, Kaithal when all the accused along with some other persons came there in a jeep and caused beatings to the complainant and her father. The complainant moved an application in this regard to SHO Police Station City Kaithal but regarding that matter a compromise was effected between the parties on 26.03.1998. After compromise, the complainant and accused No.1 started living at Kaithal in a rented house. Accused No.2 & 3 used to instigate accused No.1 against the complainant. On 23.10.1998 when the complainant and accused No.2 were living in the house of Gulshan Kumar Sharma at New Ashoka Colony, Kaithal, accused No.1 dragged the complainant by catching her from her hair inside the kitchen and bolted the same from inside and attempted to set her on fire by opening the LPG but due to intervention of the landlord of the house, she was saved from accused No.1. Thereafter, Gulshan Kumar Sharma, landlord of the house telephonically informed the father of the complainant about this episode. On receipt of that message, the father of complainant came to Kaithal and took her with him to Siwan. On 11.01.1998, the father of complainant convened a panchayat at Geeta Bhawan, Kaithal but the accused did not turn up. Despite repeated demands, the respondents-accused refused to return the Stridhan to the complainant. On these allegations, the complainant filed the present complaint.

After registration of the case on the basis of abovesaid complaint filed by the complainant, the investigation was carried out. The accused were arrested. In the pre-charge evidence, complainant produced 07 witnesses, besides producing other documentary evidence. Accused were charged for the offences punishable under Sections 406, 498-A IPC. After closing the

evidence by the complainant, statements of the accused were recorded under Section 313 Cr.P.C. The accused denied all the allegations, pleaded false implication and claimed complete innocence. In their defence, accused tendered copy of judgment passed by this Court in FAO-M-168-2001.

After hearing the learned counsel for the parties and going through the evidence brought on record, the learned trial Court came to the conclusion that the complainant failed to bring home the guilt against the accused. Accordingly, the complaint was dismissed and accused were acquitted of the charges framed against them, vide impugned judgment of acquittal dated 12.12.2008.

Dissatisfied, the impugned judgment of acquittal was challenged by the complainant, by way of appeal which also came to be dismissed by learned Sessions Judge, vide impugned judgment dated 13.08.2012. Hence this criminal revision petition, at the hands of complainant.

Learned counsel for the petitioner submits that the complainant brought cogent and convincing evidence on record, which was sufficient to record conviction of the accused persons. However, since the learned Courts have failed to appreciate the evidence in correct perspective, the impugned judgments have resulted in miscarriage of justice. He prays for setting aside the impugned judgments, by allowing the present criminal petition.

Having heard the learned counsel for the petitioner, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the peculiar facts and circumstances of the case, noticed hereinabove, instant one has not been found to be a fit case, warranting interference at the hands of

this Court, while exercising its revisional jurisdiction, which itself is a limited one. To say so, reasons are more than one, which are being recorded hereinafter.

A bare combined reading of both the impugned judgments would show that the learned Courts have discussed, considered and appreciated each and every relevant aspect of the matter, before arriving at their judicious conclusions. Oral as well as documentary evidence was appreciated in the correct perspective. Having said that, this Court feels no hesitation to conclude that the learned Courts have committed no error of law, while passing their respective impugned judgments of acquittal and the same deserve to be upheld.

It is the settled principle of law that wherever two views are possible, the view which goes in favour of the acquittal, deserves to be adopted by the Courts. It is not even the argued case on behalf of the petitioner that the view taken by the learned trial Court as well as by the learned Sessions Judge was not one of the possible views. In this view of the matter, it can be safely concluded that the impugned judgments of acquittal do not suffer from any illegality and the same deserve to be upheld, for this reason also.

The view taken by this Court also finds support from the judgment of the Hon'ble Supreme Court in the case of **Arulvelu & anr. vs. State represented by the Public Prosecutor and anr. 2009(4) RCR (Crl.) 638**. The relevant observations made by the Hon'ble Supreme Court in para Nos.39, 40 and 41 in the case of Arulvelu (supra) read as under:

“In Ghurey Lal v. State of Uttar Pradesh (2008) 10 SCC 450, a

two Judge Bench of this Court of which one of us (Bhandari, J.) was a member had an occasion to deal with most of the cases referred in this judgment. This Court provided guidelines for the Appellate Court in dealing with the cases in which the trial courts have acquitted the accused. The following principles emerge from the cases above:

- 1. The accused is presumed to be innocent until proven guilty. The accused possessed this presumption when he was before the trial court. The trial court's acquittal bolsters the presumption that he is innocent.*
- 2. The power of reviewing evidence is wide and the appellate court can re-appreciate the entire evidence on record. It can review the trial court's conclusion with respect to both facts and law, but the Appellate Court must give due weight and consideration to the decision of the trial court.*
- 3. The appellate court should always keep in mind that the trial court had the distinct advantage of watching the demeanour of the witnesses. The trial court is in a better position to evaluate the credibility of the witnesses.*
- 4. The appellate court may only overrule or otherwise disturb the trial court's acquittal if it has "very substantial and compelling reasons" for doing so.*
- 5. If two reasonable or possible views can be reached - one that leads to acquittal, the other to conviction - the*

High Courts/appellate courts must rule in favour of the accused.

40. This Court in a recently delivered judgment State of Rajasthan v. Naresh @ Ram Naresh 2009 (11) SCALE 699 again examined judgments of this Court and laid down that "An order of acquittal should not be lightly interfered with even if the court believes that there is some evidence pointing out the finger towards the accused. This Court has dealt with the scope of interference with an order of acquittal in a number of cases."

41. Careful scrutiny of all these judgments lead to the definite conclusion that the appellate court should be very slow in setting aside a judgment of acquittal particularly in a case where two views are possible. The trial court judgment can not be set aside because the appellate court's view is more probable. The appellate court would not be justified in setting aside the trial court judgment unless it arrives at a clear finding on marshalling the entire evidence on record that the judgment of the trial court is either perverse or wholly unsustainable in law."

The law laid down by the Hon'ble Supreme Court in **Arulevlu's** case (supra) has also been followed by a Division Bench of this Court in the case of **State of Haryana v. Aman Kumar and another 2012 (3) RCR (Crl.) 330** and judgment dated 2.11.2012 passed by this Court in **CRM-A-**

284-MA-2011 (Baljeet Singh v. State of Punjab and others).

Reverting back to the facts of the present case and respectfully following the law laid down by the Hon'ble Supreme Court in **Arulvelu's** case (supra), it is unhesitatingly held that the learned Courts below were well-justified on facts as well as in law, for passing the impugned judgments of acquittal and the same deserve to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the present petition is misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant criminal revision petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

06.10.2015
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