

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

CRR-183-2015 (O&M)

Date of decision : 21.12.2015

Harmandeep Kaur @ Gurwant Kaur

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: None.

JITENDRA CHAUHAN, J.

The instant revision petition has been filed by the complainant-petitioner, impugning the judgment dated 21.12.2012, passed by the Sub Divisional Judicial Magistrate, Safidon (for short, 'the trial Court'), whereby, the accused-respondents have been acquitted in case FIR No.417 dated 19.12.2008, registered under Sections 498-A, 406, 506, 323 read with Section 34 of the Indian Penal Code, registered at P.S. Safidon; and judgment dated 25.09.2014, passed by the learned Additional Sessions Judge, Jind (for short, 'the Appellate Court'), whereby, the appeal preferred by the petitioner-complainant against the judgement passed by the trial Court has been dismissed.

There is no assistance on behalf of the petitioner, however,

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it has been averred in the written petition that the ingredients of Sections 406, 498-A and 506 IPC are fully proved in the instant case. The discrepancies in the testimonies of the witnesses, as noticed by the learned Courts below, are minor in nature and it proves that the witnesses are truthful and not tutored. The accused allegedly demanded Rs.5 lacs from the complainant and on account of the non-fulfilment of this demand, she was subjected to cruelty and torture. She was also subjected to physical assault at the hands of the accused-respondents.

In the present case, the allegations levelled by the petitioner-complainant against the accused with regard to cruelty are vague and general in nature. No specific date or the manner of such cruelty has been specified. Further, there are no specific allegations with regard to entrustment of dowry articles. The police, after thorough investigation, recovered some household articles from the accused, which cannot be described as dowry articles. No evidence has been led to show that these articles were ever purchased by the complainant. Thus, it appears that the complainant has roped in the accused for wrecking vengeance on them and settling personal scores.

There is an unexplained and inordinate delay of three days in lodging the report with the police. The alleged beatings were given to the complainant on 16.12.2008, whereas, the matter came to be reported to the police on 19.12.2008, vide complaint Ex.PA. Thus, it appears that this delay has been used by the complainant for

deliberations. The complainant was medically examined on 16.12.2008 itself and neither she was declared unfit to make statement nor to report the matter to the police. As far as the alleged incident of beating of the complainant at the hands of accused-respondents on 16.12.2008 is concerned, no specific injury has been attributed to any of the accused. There is also no specific evidence to show as to how and in what manner, these injuries were inflicted on the person of the complainant.

Thus, from the perusal of the case file, this Court is of the considered opinion that the quality of evidence led by the prosecution is not sufficient to fasten the accused-respondents with criminal liability.

In ***Bindeshwari Prasad Singh Vs. State of Bihar, AIR 2002 Supreme Court 2907***, it has been held as under:-

“13. The instant case is not one where any such illegality was committed by the trial Court. that in the absence of any legal infirmity either in the procedure or in the conduct of the trial, there was no justification for the High Court to interfere in exercise of its revisional jurisdiction. It has repeatedly been held that the High Court should not re-appreciate the evidence to reach a finding different from the trial Court. In the absence of manifest illegality resulting in grave miscarriage of justice,

exercise of revisional jurisdiction in such cases is not warranted.

14. We are, therefore satisfied that the High Court was not justified in interfering with the order of acquittal in exercise of his revisional jurisdiction at the instance of the informant. It may be that the High Court on appreciation of the evidence on record may reach a conclusion different from that of the trial Court. But that by itself is no justification for exercise of revisional jurisdiction under Section 401 of the Code of Criminal Procedure against a judgment of acquittal. We cannot say that the judgment of the trial Court in the instant case was perverse. No defect of procedure has been pointed out. There was also no improper acceptance or rejection of evidence nor was there any defect of procedure or illegality in the conduct of the trial vitiating the trial itself. At best the High Court thought that the prosecution witnesses were reliable while the trial Court took the opposite view. This Court was repeatedly observed that in exercise of revisional jurisdiction against an order of acquittal at the instance of a private party the Court exercises only limited jurisdiction and should not

constitute itself into an appellate Court which has a much wider jurisdiction to go into the questions of facts and law, and to convert any order of acquittal into one of conviction. It cannot be lost sight of that when a re-trial is ordered, the dice is heavily loaded against the accused, and that itself must caution the Court exercising revisional jurisdiction. We, therefore, find no justification for the impugned order of the High Court ordering re-trial of the appellants.”

In a recent judgment delivered by Hon'ble the Apex Court in ***Venkatesan V. Rani (SC), 2013(6) R.A.J. 342***, it has been observed that the order of acquittal by trial Court cannot be set aside in revision if the view taken by the trial Court was not an impossible view. It has been held as under:-

“7. The above consideration would go to show that the revisional jurisdiction of the High Courts while examining an order of acquittal is extremely narrow and ought to be exercised only in cases where the Trial Court had committed a manifest error of law or procedure or had overlooked and ignored relevant and material evidence thereby causing miscarriage of justice. Re-appreciation of

evidence is an exercise that the High Court must refrain from while examining an order of acquittal in the exercise of its revisional jurisdiction under the Code. Needless to say, if within the limited parameters, interference of the High Court is justified the only course of action that can be adopted is to order a re-trial after setting aside the acquittal. As the language of Section 401 of the Code makes it amply clear there is power vested in the High Court to convert a finding of acquittal into one of conviction.”

In the instant case, this Court does not find any ground to interfere with the impugned judgments, in exercise of its revisional jurisdiction, as nothing has come out to show that there is any defect of procedure or improper acceptance or rejection of evidence by the Courts below. This Court feels that the impugned judgments have been passed after proper appreciation of evidence on record and application of judicial mind.

Consequently, the present revision petition fails and is hereby dismissed.

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(JITENDRA CHAUHAN)
JUDGE