

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

CRR-2123 of 2014

Date of decision: 3.12.2015

Jasbir Kaur

... Petitioner

Vs.

State of Punjab and others

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. R.S. Chauhan, Advocate
for the petitioner.

Mr. K.D. Sachdeva, Additional A.G. Punjab.

Mr. Kirpal Singh, Advocate
for respondent No.3.

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.

Present criminal revision petition, at the hands of the complainant, is directed against the impugned judgment dated 4.4.2014 passed by learned Additional Sessions Judge, Patiala, whereby appeal of the petitioner was dismissed, upholding the impugned judgment of acquittal dated 8.5.2013, passed by learned Judicial Magistrate 1st Class, Patiala,

Brief facts of the case, as recorded by learned Additional Sessions Judge in para 2 of the impugned judgment, are that complainant-Jasbir Kaur had moved an application to the SSP,

Patiala, wherein she alleged that her marriage was solemnized with Sukhwinder Singh son of Kapur Singh on 25.1.1998 at village Alimajra, Tehsil Rajpura and her father gave sufficient dowry at the time of marriage. After one year of the marriage, her husband, at the instance of his family members, started maltreating and demanding more dowry, due to which she suffered mental as well as financial harassment. The husband of complainant had gone abroad three years ago and at the instance of the accused persons, he did not give a single penny to the complainant nor wrote any letter to her and also instigated other accused persons to raise demand of more dowry from her. On her refusal to meet the demand of accused person, they maltreated, beaten her and pressurized for divorce from her husband, as they wanted to re-marry Sukhwinder Singh. It was further alleged that on 25.7.2004, mother-in-law of the complainant demanded of ₹50,000/- from her and on her refusal, she caught hold her from her tail. In the meantime, her father-in-law also came there and he slapped on the face of complainant. Balwinder Singh, brother-in-law of the complainant, who was also standing there, gave kick blows in her stomach. Bholi wife of Balwinder Singh twisted the arms of complainant. The complainant raised alarm, which attracted some ladies from the neighbourhood to the spot, who rescued the complainant from the clutches of the accused persons. The father-in-law of complainant armed with a sword threatened her with dire consequences. The complainant ran away from there and saved her life. Earlier the complainant moved applications dated 2.8.2004 before the Women Cell, Patiala and to the local police but no action

was taken against the accused. On the basis of the application moved by the complainant to the SSP, Patiala, case has been registered against the accused persons. ASI Raghbir Singh recorded statements of the witnesses and as per the orders dated 2.12.2004 passed by the court, recovery of dowry articles was effected. Proceedings under Section 82 of the Code of Criminal Procedure ('Cr.P.C.' for short) were initiated against Sukhwinder Singh accused. During the investigation, Balwinder Singh and his wife were found innocent and their names were kept in column No.2 of the report under Section 172 Cr.P.C. Accused Kapur Singh and Vidya Kaur were arrested on 7.7.2005. After completing all the formalities of investigation, challan was presented in court.

Challan having been presented, copy thereof alongwith documents attached therewith was supplied to the accused by the learned trial court, as required under Section 207 Cr.P.C. Finding a prima facie case, charges under Sections 406/498-A of the Indian Penal Code ('IPC' for short) were framed against the accused, to which they pleaded not guilty and claimed trial. With a view to prove its case, prosecution examined as many as 5 PWs, besides producing other relevant documentary evidence.

On conclusion of the prosecution evidence, statements of accused were recorded under Section 313 Cr.P.C. All the incriminating material brought on record was put to the accused. They denied all the allegations, alleged false implication and pleaded complete innocence. However, they did not opt to lead defence evidence.

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 prosecution failed to bring home the guilt against the accused. Accordingly, accused were acquitted of the charges framed against them, vide impugned judgment of acquittal dated 8.5.2013

Dissatisfied, the impugned judgment of acquittal was challenged by the complainant-petitioner, by way of appeal which also came to be dismissed by learned Additional Sessions Judge, vide impugned judgment dated 4.4.2014. Hence this criminal revision petition, at the hands of complainant.

It is pertinent to mention here that respondent No.2 since expired, as stated by learned counsel for respondent No.3 on 5.1.2015, present petition survives only qua respondent No.3.

Learned counsel for the petitioner submits that the prosecution 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.

On the other hand, learned counsel for respondent No.3 submits that before recording acquittal, learned trial court took into consideration each and every relevant aspect of the matter. After appreciating all the material available on record, learned trial court came to a judicious conclusion which was also upheld by the learned

appellate court. In this view of the matter, no interference is called for at the hands of this Court. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival 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.

Further, there were no specific allegations against respondent No.3 that she ever demanded dowry from the complainant. It has rightly been recorded by the learned courts that since the complainant resided for three years with the respondents and during this period the complainant had used the dowry articles, it

cannot be said that respondent No.3 misappropriated the same. Neither there was any allegation of cruelty against the respondent No.3 nor any medical report was available on record in this regard. In this view of the matter, it is unhesitatingly held that learned courts below committed no error of law, while acquitting respondent No.3.

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 Additional 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 (CrI.) 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 in the judgment dated 2.11.2012 passed by this Court in **CRM-A- 284-MA-2011 (Baljeet Singh v. State of Punjab and others)**.

Reverting 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 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

3.12.2015
AK Sharma