

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CRR No.3824 of 2015
Date of Decision : 17.11.2015

Seema RaniPetitioner

Vs.

Rajesh and othersRespondents

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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Present : Mr. Gautam Kailey, Advocate for Mr. A.K. Antil, Advocate for
the petitioner.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

Present revision petition is directed against the impugned judgement dated 2.7.2015 passed by the learned Additional Sessions Judge, Sonapat, whereby appeal of the respondents was allowed and the judgement of conviction dated 15.1.2013 as well as the order of sentence dated 17.1.2013 passed by the learned JMIC, Sonapat was set aside.

Brief facts of the case, as noticed by the learned trial court in para 2 of its judgement are that the present case was registered at the behest of the complainant on the allegation that on 30.4.2004, the accused Rajesh (being husband), Veerpal (being father-in-law), Monu (being sister-in-law) and Ravi (being brother-in-law) subjected the complainant/Seema to cruelty, by coercing her to meet their unlawful demand of dowry i.e. Cash amount of Rs.50,000/- and

motorcycle, committed criminal breach of trust in respect of the articles as mentioned in the list of dowry articles, voluntarily caused hurt to the complainant Seema and also committed criminal intimidation by threatening the said complainant Seema with life and thereby committed the offence punishable under Sections 498-A, 406, 323 and 506 IPC. Upon this complaint, after registration of the FIR, the investigation was set in motion. The accused persons were arrested. After completion of all the usual acts of investigation, the challan was presented before the court for commencement of trial.

The challan having been presented, copy thereof alongwith documents attached therewith was supplied to the accused as envisaged under Section 207 Cr.P.C. A prima facie case was made out against the accused and they were accordingly charge sheeted for the offences punishable under Sections 498-A, 406, 323 and 506 IPC. Accused pleaded not guilty and claimed trial.

With a view to prove its case, prosecution examined as many as 3 PWs besides placing on record the other relevant documentary evidence. After closing of the prosecution evidence, statements of the accused were recorded under Section 313 Cr.P.C. All the incriminating material brought on the record was put to the accused. Accused denied the allegations, alleged false implication and pleaded complete innocence. However, the accused did not lead any evidence in defence.

After hearing both the parties and going through the record of the case, the learned trial court came to the conclusion that the prosecution has brought home the guilt against the accused. Accordingly, the accused were held guilty for the offences punishable under Sections 498-A, 406, 323 and 506 IPC vide judgement of conviction dated 15.1.2013. Accordingly, the convicts were awarded the sentence vide order dated 17.1.2013 for a period of 2 years under

Section 498-A IPC and a fine of Rs.2000/- each. They were also awarded the sentence of 1 year for the offence punishable under Section 406 IPC and again the sentence of 1 year for the offence punishable under Section 506 IPC. However, all the sentences were ordered to run concurrently. Feeling aggrieved, convicts-respondents filed their appeal, which came to be allowed by the learned Additional Sessions Judge, Sonapat, vide impugned judgement dated 2.7.2015. Hence, this criminal revision petition at the hands of the complainant.

Learned counsel for the petitioner submits that the accused-respondents were rightly held guilty by the learned trial court, as there was sufficient and cogent evidence to record their conviction. However, since the learned first appellate court misdirected itself, while passing the impugned judgement, the same has resulted in miscarriage of justice and liable to be set aside. He prays for setting aside the impugned judgement, by allowing the present petition.

After hearing learned counsel for the petitioner, going through the record of the case and giving thoughtful consideration to the contentions raised, this court is of the considered opinion that present one is not a fit case, warranting interference at the hands of this court, while exercising its revisional jurisdiction, which itself is a limited one.

A bare reading of the impugned judgement passed by the learned first appellate court would show that each and every relevant aspect of the matter has been examined, considered and appreciated in the correct perspective before arriving at a judicious conclusion. Petitioner failed to examine any independent witness. Her self serving statement was rightly not found sufficient by the first appellate court, to uphold the conviction of the respondents. Having said that, this court feels no hesitation to conclude that the learned Additional Sessions

Judge committed no error of law, while passing the impugned judgement and the same deserves to be upheld.

It is the settled proposition of law that whenever two views are possible, the view which goes in favour of acquittal is 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 was not one of the possible views. In this view of the matter, it can be safely concluded that the impugned judgement of acquittal does not suffer from any illegality and the same deserves to be upheld, for this reason also.

The view taken by this court also finds support from the judgement of the Hon'ble Supreme Court in the case of **Arulvelu & anr. vs. State represented by the Public Prosecutor and anr.** 2009(4) RCR (Cr.) 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 Vs. 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 to in this judgement. 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 judgement *State of Rajasthan V. Naresh @ Ram Naresh* 2009 (11) SCALE 699 again examined judgements 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 judgements lead to the definite conclusion that the appellate court should be very slow in setting aside a judgement of acquittal particularly in a case where two views are possible. The trial court judgement 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 judgement unless it arrives at a clear finding on marshalling the entire evidence on record that the judgement of the trial court is either perverse or wholly unsustainable in law.”

The law laid down by the Hon'ble Supreme Court in Arulvelu's case (supra) has also been followed by a Division Bench of this court in the case of State of Haryana Vs. Aman Kumar and another 2012 (3) RCR (CrI.) 330 and judgement dated 2.11.2012 passed by this court in CRM-A-284-MA-2011 (Baljeet Singh Vs. 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 the cases referred to herein above, it is unhesitatingly held that since the impugned judgement has not been found to be suffering from any illegality, the same deserves to be upheld.

During the course of hearing, learned counsel for the petitioner failed to point out any jurisdictional error or patent illegality apparent on the record of the case in the impugned judgement of acquittal, so as to convince this court to take a different view than the one taken by the learned first appellate court, therefore, no interference is warranted at the hands of this court. Thus, the

impugned judgement deserves 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 present petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, instant petition stands dismissed, however, with no order as to costs.

17.11.2015
GS

(RAMESHWAR SINGH MALIK)
JUDGE