

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-4053-2014 (O&M)
Date of decision: 21.08.2015

Jyoti

... Petitioner

Vs.

Tarvinder Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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

Mr. Arnav Sood, Advocate
for the respondents.

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 instance of complainant, is directed against the impugned judgment dated 27.10.2014 passed by learned Additional Sessions Judge, Hoshiarpur, whereby appeal of the accused-respondents, against the judgment of conviction dated 08.05.2014 passed by learned Judicial Magistrate 1st Class, Mukerian, was allowed and conviction of the accused-respondents, was set aside.

Brief facts of the case, as noticed by the learned Additional Sessions Judge in para 2 of his impugned judgment, are that an application bearing No.1700-PB dated 13.05.2010 had been moved by Jyoti daughter of Bhagwan Singh resident of Village Dhola Khera, PS and Tehsil Mukerian,

District Hoshiarpur, to the SSP Hoshiarpur. The contents of the application are that the marriage of complainant was solemnized with Tarvinder Kumar on 02.10.2008 as per Hindu rites. After the marriage, she started living in her matrimonial home. No child was born out of the wedlock of the complainant and Tarvinder Kumar. At the time of marriage, her parents had given dowry beyond their capacity but her in-laws family was not happy with the same. She was intending to initiate her new life with all joys and happiness but after a short period of four days, her mother-in-law started taunting her for bringing less dowry and for giving less gold ornaments. She kept on tolerating all this silently. Her in-laws family used to point out faults in her work with every day passing by. When treatment of her in-laws family got worsened, she disclosed the matter to her parents but they advised her to remain silent. She even discussed with her husband that her parents have already given dowry at the time of marriage beyond their capacity but instead of paying heed to her grievances, her husband started beating her at the instigation of her mother-in-law and sister-in-law. Thereafter consistently, she was meted out with such kind of harassment. Her parents tried to persuade her in-laws family but behaviour of her in-law family got worsened. After six months of the marriage, her in-laws demanded Rs.1 lac from her. With intention to settle the matter, her parents gave Rs.50,000/- to her husband. Thereafter the atmosphere got better for her for few days but again her in-laws family started giving her the same kind of treatment. She was turned out of her matrimonial home in order to pressurize her to bring money. Panchayats were convened and she was sent back to her matrimonial home. All the accused persons tried to entrap her in a false case of suicide and further they threatened to burn her after pouring kerosene oil. She

kept on silently bearing with this cruel treatment in order to settle her matrimonial home. On 02.05.2010, her husband, her mother-in-law and sister-in-law hatched a conspiracy and asked her to bring car from her parents and further they demanded a ring for her father-in-law and ring for her sister-in-law and when she showed her inability to fulfill the abovesaid demands, her mother-in-law exhorted her husband to kill her or to turn out her of the matrimonial home. Her mother-in-law instigated to solemnize the second marriage of her husband. Thereupon her husband caught hold of her and started thrashing her. She tried to rescue herself. Then her mother-in-law and sister-in-law caught hold of her and started thrashing her. Her mother-in-law exhorted her husband to kill her. Consequently, her husband tried to strangle her. She raised alarm and accused persons left her. Her husband threatened to kill her by severing her into pieces and throwing her into canal. She refused to go along with her husband. Her mother-in-law, husband and sister-in-law snatched entire of her gold ornaments and threw her out of her matrimonial home. They also threatened her that if she would return without gold ornaments, she would be done to death. She reached at her home after facing great difficulties where she disclosed the entire occurrence. Her parents contacted the accused persons but they threatened her parents if she would return back to matrimonial home without car and gold ornaments, she would be done to death. Her in-laws family was greedy of dowry. They had been misbehaving and torturing her for compelling her to bring more dowry. Her husband is an employee at Rajender Jewellery Shop, Hoshiarpur. He says that he has got company with rich persons and is unable to carry his reputation without car. Her mother-in-law instigates her husband, after administering him liquor for demanding more dowry and her

entire in-laws family has been torturing her and has been attempting to kill her in order to pressurize her to bring more dowry. Accused persons were misappropriating her Stridhan. On the basis of complaint of complainant, FIR was registered. Accused were arrested and subsequently released on bail. After completion of the investigation, challan in the present case was presented in the Court against the accused.

The challan having been presented against the accused, copy thereof along with documents attached therewith, was supplied to the accused as required under Section 207 Cr.P.C. A prima facie case was found and accordingly, the accused were charge-sheeted by the learned trial Court. Accused pleaded not guilty and claimed trial.

In order to substantiate its case, prosecution examined as many as 11 PWs, besides producing on record other relevant documentary evidence. On conclusion of the prosecution evidence, statements of the 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 levelled by the prosecution, alleged false implication and pleaded complete innocence. However, accused did not lead any defence evidence.

After hearing learned counsel for both the parties and going through the evidence brought on record, the learned trial Court came to the conclusion that the prosecution has proved its case, bringing home guilt against the accused. Accordingly, the accused were convicted for the offence punishable under Section 498-A IPC, vide judgment of conviction dated 08.05.2014. Consequently, the convicts were awarded the sentence for a period of two years R.I. and a fine of Rs.500/-. In default of payment of fine, they were

further ordered to undergo R.I. for 15 days, vide order of sentence of even date i.e. 08.05.2014.

Feeling aggrieved, convicts filed their appeal which came to be allowed by the learned Additional Sessions Judge, vide his impugned judgment dated 27.10.2014. Hence this criminal revision petition, at the hands of the complainant.

Learned counsel for the petitioner submits that the learned trial Court rightly convicted the accused. The prosecution has brought on record cogent and convincing evidence, which was sufficient to record conviction. However, the learned Additional Sessions Judge fell in serious error of law, while passing the impugned judgment of acquittal and the same is liable to be set aside. He further submits that the cogent and convincing evidence available on record against the accused, was not appreciated by the learned Additional Sessions Judge in the correct perspective, because of which the impugned judgment of acquittal has resulted in miscarriage of justice. He prays for setting aside the impugned judgment, by allowing the present criminal revision petition.

On the other hand, learned counsel for the accused-respondents submits that the learned trial Court committed a serious error of law, while recording the conviction of the accused. There was no cogent and convincing evidence which could have been said to be sufficient to record the conviction of the accused. This was the reason that the learned Additional Sessions Judge has rightly accepted the appeal of the accused, setting aside the judgment of conviction. He prays for dismissal of the present criminal revision 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 contentions raised, this Court is of the considered opinion that keeping in view the peculiar facts and circumstances of the case, noticed hereinabove, present one has not been 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 reading of the impugned judgment of acquittal passed by the learned Additional Sessions Judge would show that the documentary as well as oral evidence was appreciated in the correct perspective, before arriving at a judicious conclusion. Evidence brought on record was not found sufficient to record 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 judgment of acquittal and the same deserves 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 Additional Sessions Judge was not one of the possible views. In this view of the matter, it can be safely concluded that the impugned judgment of acquittal do 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 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 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 Additional Sessions Judge was well-justified on facts as well as in law, in passing the impugned judgment of acquittal and the same 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 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

21.08.2015
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