

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 482 of 2016**

Chaya Sahu W/o Amit Sahu Aged About 25 Years R/o Jaijaipur Sanjay Nagar, Jaijaipur,

---- Applicant

Versus

1. Amit Sahu S/o Chedilal Sahu Aged About 27 Years R/o Sanjay Nagar, P.S. Jaijaipur, Distt. Janjgir Champa Chhattisgarh.
2. Chedilal Sahu S/o Pahetram Sahu Aged About 69 Years R/o Sanjay Nagar, P.S. Jaijaipur, Distt. Janjgir Champa Chhattisgarh.
3. Smt. Kanti Bai W/o Chedilal Sahu Aged About 53 Years R/o Sanjay Nagar, P.S. Jaijaipur, Distt. Janjgir Champa Chhattisgarh.
4. Smt. Parmeshwaribai W/o Basant Kumar Sahu Aged About 24 Years R/o Sanjay Nagar, P.S. Jaijaipur, Distt. Janjgir Champa Chhattisgarh.
5. Smt. Rajkumari W/o Jagdish Sahu Aged About 32 Years R/o Sanjay Nagar, P.S. Jaijaipur, Distt. Janjgir Champa Chhattisgarh.
6. State Of Chhattisgarh Through District Magistrate District Janjgir Champa Chhattisgarh.

----Non-Applicants

For Applicant:	Shri Ishwar Jaiswal, Advocate.
For Non-Applicant/State:	Shri Neeraj Jain, Government Advocate.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

13.6.2016

1. The present Revision has been preferred challenging the order dated 16.2.2016 passed by the 1st Additional Sessions Judge, Sakti, Distt. Janjgir-Champa in Criminal Appeal No.156/2015. By way of the said impugned order, the Court below has, while hearing the appeal against the judgment of acquittal dated 29.6.2015 passed by the Judicial Magistrate, First Class, Jaijaipur in Criminal Case No.525/2013, had passed a judgment of acquittal to Respondents No.1 to 5 wherein the Respondents were charged for the

offence punishable under Section 498-A/34 IPC.

2. Learned Counsel for the Applicant submits that the two Courts below have failed to appreciate the evidence which is available on record in its correct perspective. The statement of the Complainant/Applicant i.e. the wife of Non-Applicant No.1 and the statement of father and mother of the Complainant i.e. Aatmaram, PW-2 and Siya Bai, PW-3 respectively have not been properly appreciated by the Court below while passing the judgment of acquittal. He fairly concedes that so far as Non-Applicants No.4 & 5 are concerned, there does not seem to be any strong case made out by the Complainant in her evidence so as to interfere with the order of acquittal granted to them. If we peruse the records of the Court below, more particularly the appreciation of the evidence of the Complainant, PW-1 as well as Aatmaram, PW-2 and Siya Bai, PW-3 i.e. the father and mother of the Complainant, PW-1, it is evidently clear that there was no allegation of any demand of dowry against the Non-Applicants by the Complainant all along till the written complaint for the first time was written by the Complainant on 7.8.2013 based upon which, the First Information Report was subsequently registered on 7.9.2013. The Court below has in detail, considered the evidence of the Complainant and the evidence of the prosecution and in the course of the evidence, it was found that the relationship between the Complainant and Non-Applicant No.1- her husband was in fact cordial which is established from the fact that after she had conceived of her 1st child, it was Non-Applicant No.1 who went and dropped the Complainant at her home when she was at the advanced stage of 8 months pregnancy. Even at that point of time, there was no allegation of any cruelty met upon the Complainant by the Non-Applicant No.1. From the evidence, it is also clear that the entire

dispute arose because of a report of theft lodged by Non-Applicant No.1 against the Complainant and her family members on 6.1.2012 wherein in a complaint made to the SDM, it was alleged that the Complainant in the present case and her parents had committed theft of certain gold and silver articles and also certain clothes from the house of Non-Applicant No.1 and the said complaint was registered with the SDM who in turn, had called upon the Complainant and her parents and it was only subsequently for the first time that the Complainant had lodged a complaint against her in-laws levelling allegations of cruelty on the ground of demand of dowry.

3. For the foregoing reasons, this Court is of the opinion that the two Courts below have not committed any error of fact or law while reaching to the conclusion that the Complainant or for that matter the prosecution side has not been able to prove the case beyond all reasonable doubts for convicting the Non-Applicants for the offence punishable under Section 498-A IPC. Even otherwise, the records clearly show that the order of conviction has already been subjected to challenge before the Appellate Court and the Appellate Court also vide impugned order, has found that there is no case made out by the Applicant calling for any interference with the order of acquittal dated 29.6.2015.

4. It is settled position of law that in an appeal against an order of acquittal only in exceptional cases where there are compelling circumstances and the judgment under appeal is found to be perverse can the Appellate Court interfere with the order of acquittal. Recently, Hon'ble the Supreme Court in the case of Phula Singh Vs. State of Himachal Pradesh, AIR 2014 SC 1256, in Para-10, has in very categorical term held that: "*The appellate Court should*

bear in mind the presumption of innocence of the accused and further that the trial Court's acquittal bolsters the presumption of his innocence. Interference in a routine manner where the other view is possible should be avoided, unless there are good reasons for interference."

5. Once there is an order of acquittal in favour of the alleged accused person, the same should not be interfered with very lightly unless there is a prima facie strong case with cogent, sufficient and substantial proof in favour of the prosecution brought before the Court below and which has not been considered or has been overlooked by the Court below, only then can the order of acquittal have a scope of interference.

The law in this regard is by now well settled in a series of judgement of the Hon'ble Supreme Court wherein the Supreme Court has in very categorical terms held that whenever there is an order of acquittal, the higher Courts should not upset the holding without there being very convincing reasons and comprehensive considerations.

An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial Court.

If two reasonable conclusions are possible on the basis of the evidence on record, the appellate Court should not disturb the finding of the acquittal recorded by the trial Court. The High Court is also required to see that unless

there are substantial and compelling circumstances, the order of acquittal is not required to be reversed in appeal.

It is trite here to refer to a few decisions in this regard by the Hon'ble Supreme Court:

- 2007 (4) SCC 415 – Chandrappa v. State of Karnataka.
- 2012 (1) SCC 602 – State of Rajasthan v. Shera Ram.
- 2013 (5) SCC 705 – Shivasharanappa v. State of Karnataka.
- AIR 2009 SC 1542 (Para 12) – State of Punjab v. Sukhchain Singh & Anr.
- 2012 (6) SCC 589 (Para-27) – Rohtash v. State of Haryana.

6. Thus, this Court is of the considered view that the finding arrived at by the Courts below is purely in accordance with law and the Courts below have not committed any error of fact or law in reaching to the said conclusion of acquitting the Respondent of the charge leveled against him under Section 498-A/34 IPC.

7. In view of above, this Court does not find any good ground calling for any interference with the impugned order and the Revision Petition being devoid of any merits, the same is accordingly dismissed.

Sd/-

(P. Sam Koshy)

JUDGE