

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 878 of 2016

Smt. Nanda Soni W/o Rajesh Soni, aged about 36 years, R/o A/64, Madhyanchal Marg, Smriti Nagar, Police Station Supela, Tahsil & District Durg, Chhattisgarh.

---- Applicant

Versus

1. State of Chhattisgarh through the Home Department, Mantralaya, Mahanadi Bhawan, Police Station Rakhi, Naya Raipur, Chhattisgarh.
2. Smt. Vimla Bai W/o Omprakash Sahu, aged about 46 years, R/o Village Harai, Police Station Chindwara, Tahsil & District Chindwara, Madhya Pradesh.
3. Dhanesh Soni S/o Late Lekhram Soni, aged about 33 years, R/o Village Harai, Police Station Chindwara, Tahsil & District Chindwara, Madhya Pradesh.
4. Smt. Mamta Soni W/o Santosh Soni, aged about 34 years, R/o Village Harai, Police Station Chindwara, Tahsil & District Chindwara, Madhya Pradesh.
5. Archana Soni D/o Lekhram Soni, aged about 22 years, R/o Village Harai, Police Station Chindwara, Tahsil & District Chindwara, Madhya Pradesh.
6. Renuka Soni D/o Lekhram Soni, aged about 24 years, R/o Village Harai, Police Station Chindwara, Tahsil & District Chindwara, Madhya Pradesh.
7. Lekhram Soni D/o Late Vrindavan Soni aged about 72 years, R/o Village Harai, Police Station Chindwara, Tahsil & District Chindwara, Madhya Pradesh.
8. Smt. Narmada Soni W/o Lekhram Soni aged about 65 years, R/o Village Harai, Police Station Chindwara, Tahsil & District Chindwara, Madhya Pradesh.
9. Rajesh Kumar Soni S/o Lekhram Soni, aged about 40 years, R/o House No. 66/ H, Resali Sector, Bhilai, Tahsil & District Durg, Chhattisgarh.

---- Respondents

For Applicant	:	Shri Ravindra Sharma, Advocate
For Respondent/State	:	Shri Lav Sharma, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/11/2016

The present revision petition has been preferred against the judgment of acquittal dated 12.01.2011 passed by the JMFC, Durg in Criminal Case

No. 1214 of 2010 against the respondents for the offence under Section 498A of IPC and Section 4 of Dowry Prohibition Act. The said order of acquittal has already been affirmed by the Additional Sessions Judge, Durg vide its order dated 28.04.2016 passed in Criminal Appeal No. 17/2011

2. Counsel for the applicant referring to the statement of the complainant/applicant Nanda Soni PW-1 and the two letters Ex. P-3 & P-4 sent by the complainant to her parents submits that these letters have not been considered by the two Courts below in its proper perspective and in a mechanical manner has granted acquittal in favour of the respondents. According to the counsel for the applicant, there has been specific allegation made by the complainant against the accused respondents which is evident from the letters Ex.P-3 and P-4 stating that immediately after marriage she was subjected to ill-treatment and cruelty on the ground of insufficient dowry and she was physically as well as mentally tortured by the respondents. He submits that the Court below has not appreciated the fact that the applicant has also been physically tortured by the husband as well as by the in-laws and she was also hospitalized in between because of the assault made by the husband. All these facts have not been considered by the two Courts below while passing the impugned Judgments and therefore the same deserve to be set aside and the matter needs to be sent back for fresh adjudication.

3. State counsel, however, draws the attention of this Court to the two letters Ex.P-3 and P-4 relied upon by the applicant and submits that these two letters do not reflect any specific detail allegation made against the respondents except for a bald allegation. The two letters also do not reflect individual overtact committed by each of the accused persons. State counsel took the Court through the order passed by the Appellate Court and submitted that all the contentions put forth by the applicant has already been threadbare considered by the appellate Court and nothing further remains to

be adjudicated by this revision petition exercising the revisional powers. He further submits that on perusal of the order of the appellate Court itself reflects that the Court below has found various omissions in the evidence of the complainant side. Thus, prayed for rejection of the revision petition.

4. Having considered the submissions put forth by the counsel appearing on either side and on perusal of the record what clearly reflects is that Ex. P-3 & P-4 are the two letters which have been heavily relied upon by the complainant in respect of the allegation made against the accused persons. A perusal of these two letters would show that its contents are identical and similar in nature and it appears that primarily it was created for the purpose of lodging the complaint against the accused respondents. Second thing which also creates doubt in the mind of the Court is that the applicant was residing at Resali and the house of her parents was in the immediate neighbouring i.e. Smriti Nagar which is very close. Therefore, it is beyond comprehension that in spite of her parental home being so close, she requires to send letters to her parents for intimating her grievances. All these factors have been taken into consideration by the Court below while granting acquittal to the respondents.

5. By now it is well settled proposition of law that an order of acquittal as a matter of routine cannot be interfered with unless there is cogent & strong evidence brought before the Appellate Court or the Revisional Court. In the instant case, this Court does not find any such strong case brought by the applicant so as to force this Court to take a different view than which has been taken by the two Courts below. An accused is presumed to be innocent unless it is proved otherwise. The presumption of innocence gets fortified as he has got an order of acquittal from the trial Court which further gets fortified by the order of the Appellate Court affirming the order of acquittal.

6. Thus, in the given facts and circumstances of the case, this Court is of the opinion that no strong case has been made out by the applicant so as to force this Court to reach to a conclusion that the finding of the two Courts below is contrary to the evidence on record.

7. Accordingly, the present criminal revision being devoid of merit, the same deserves to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
Judge