

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

CRM-A-1986-MA-2016 (O&M)

Date of decision : 10.10.2016

Pardip Kaur

...Applicant

Versus

Hardev Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. G.S. Simble, Advocate,
for the applicant.

JITENDRA CHAUHAN, J.

The applicant seeks special leave to appeal against judgment dated 12.05.2016 passed by the learned Judicial Magistrate 1st Class, Batala (for short, 'the trial Court'), thereby acquitting the accused-respondents in a criminal complaint under Sections 498-A, 406 and 323 of the Indian Penal Code (for short, 'the IPC').

It is the case of the applicant/complainant that her marriage was solemnized with accused/respondent No.1, Hardev Singh, on 16.11.2003. Sufficient dowry had been given to the accused/respondents in the marriage. One male child was born out of the wedlock. However, after some time, the respondents started demanding more dowry and on the pretext thereof, the complainant was subject to continuous harassment and maltreatment at the hands of the accused/respondents. Ultimately, on 15.06.2008, she along with the minor child was turned out of the matrimonial home.

In order to prove her case, the complainant examined Mahain Singh, her father as CW1; herself as CW2; Ravinder Kaur, mother of the complainant as CW3; and Bua Singh as CW4.

On finding a prima facie case, accused-respondent Nos.1 to 3 were summoned to face trial under Sections 498-A, 406 and 323 IPC vide order dated 18.01.2014, whereas, the complaint qua remaining accused was dismissed.

In pre-charge evidence, the complainant examined Bua Singh as CW1, Mahain Singh as CW2, Ravinder Kaur and CW3 and the complainant herself appeared as CW4. Thereafter, charge under Section 498-A, 406 and 323 IPC was framed, to which they pleaded not guilty and claimed trial. The accused opted to further cross-examine the witnesses of the complainant.

The statements of the accused under Section 313 Cr.P.C. were recorded wherein all incriminating evidence was put to them to which they denied and pleaded innocence.

After hearing learned counsel for the parties and appreciating the evidence on record, learned trial Court dismissed the complaint qua respondent Nos.1 to 3 as well and acquitted them of the charges framed against him.

Hence the instant application.

From the perusal of the case file, it emerges that the allegations levelled in the complaint lack specificity. No time date and month has been stated by the complaint with regard to demand of dowry. The allegations of giving beatings are also not supported by any medical evidence. The

complainant during her cross-examination specifically stated that she did not know the reason of quarrel in her matrimonial home. She further stated that the quarrel always started between Hardev Singh and his sister and the complainant was having no concern with such quarrels. She even admitted that she had filed the present case only for taking divorce. She further stated that she had levelled allegations of beatings in the complaint so that she could obtain divorce. In her post-charge evidence, she stated that she did not intend to go to her matrimonial home. Thus, the conduct of the complainant, when seen in totality, leads the Court to an irresistible conclusion that the only purpose of filing the present complaint was to get divorce from the complainant.

It is a settled law as has been held in ***C. Antony Vs. K.G. Raghavan Nair, 2002(4) R.C.R. (Criminal) 750*** that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption of innocence; and secondly, the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

In ***State of Rajasthan vs Shera Ram @ Vishnu Dutta, (2012) 1 SCC 602***, Hon'ble the Supreme Court has held as under:-

“13. When an accused is acquitted of a criminal charge, a right vests in him to be a free citizen and this Court is very cautious in taking away that right. The presumption of innocence of the accused is further strengthened by the fact of acquittal of the accused

under our criminal jurisprudence. The courts have held that if two views are possible on the evidence adduced in the case, then the one favourable to the accused, may be adopted by the court. However, this principle must be applied keeping in view the facts and circumstances of a case and the thumb rule is that whether the prosecution has proved its case beyond reasonable doubt. If the prosecution has succeeded in discharging its onus, and the error in appreciation of evidence is apparent on the face of the record then the court can interfere in the judgment of acquittal to ensure that the ends of justice are met. This is the linchpin around which the administration of criminal justice revolves.

14. It is a settled principle of criminal jurisprudence that the burden of proof lies on the prosecution and it has to prove a charge beyond reasonable doubt. The presumption of innocence and the right to fair trial are twin safeguards available to the accused under our criminal justice system but once the prosecution has proved its case and the evidence led by the prosecution, in conjunction with the chain of events as are stated to have occurred, if, points irresistibly to the conclusion that the accused is guilty then the court can interfere even with the judgment of acquittal. The judgment of acquittal might be based upon

misappreciation of evidence or apparent violation of settled canons of criminal jurisprudence.”

In view of the above, this Court is of the considered opinion that the findings recorded by the trial Court are based on correct appreciation of facts and evidence on record and no illegality or perversity can be said to have been committed by it. The complainant has miserably failed to prove his case against the accused-respondents beyond a shadow of reasonable doubt.

Accordingly, the present application is dismissed and the impugned judgment rendered by the trial Court is affirmed.

Special leave declined.

10.10.2016

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**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No