

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

CRM-A-808-MA of 2014 (O&M)

Date of Decision: 04.12.2017.

Bimla

... Applicant-Appellant

Versus

Bansi Lal and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Rajesh Bansal, Advocate,
for the applicant-appellant.

Ms. Mannat Anand, Advocate,
for the respondents.

JITENDRA CHAUHAN.J.

This is an application under Section 378(4) Cr.P.C for grant of Special Leave to appeal against the judgment of acquittal dated 24.03.2014, passed by Judicial Magistrate First Class, Panipat vide which the respondents were acquitted in complaint case titled as “Bimla versus Bansi Lal and others” filed under Sections 406, 498-A and 420 read with Section 34 of IPC.

The brief facts of the case as mentioned in paragraph No.2 of the judgment passed by the trial Court are as under:-

“The complainant vide the present complaint has briefly averred that her marriage was solemnized with accused no.1 Bansi Lal on 14.02.1993 as per Hindu rites and ceremonies at Village Baniya Khera, District Jind and in her marriage her parents had spent a

handsome amount and had further entrusted her Stridhan worth Rs.70,000/- in shape of expensive clothes, jewellery and furniture to the abovenamed accused persons. It has been further averred by the complainant that at the time of the said entrustment abovenamed accused persons had promised that they would release the Stridhan of the complainant to her as and when demanded by her. It has been further averred by the complainant that soon after her marriage with the abovenamed accused no.1 all the abovenamed accused persons in collusion with each other started taunting and torturing her with their demands of dowry and they started raising a demand of Rs.60,000/- from the complainant. It has been further averred by the complainant that the abovenamed accused no.1 was a compulsive alcoholic and used to come in house in a drunkard position at night and when ever the complainant tried to reason out with him he used to give merciless beatings to the complainant. It has been further averred by the complainant that since the abovenamed accused persons had been pressurizing her with their demand of Rs.60,000/- she took Rs.20,000/- from her father and gave it to the abovenamed accused no.1, however, the abovenamed accused persons were not satisfied with the said amount and they again started torturing and taunting the complainant for bringing the balance amount of Rs.40,000/-. It has been further averred by the complainant that thereafter, abovenamed accused no.2 Om Parkash again demanded Rs.40,000/- from

the complainant on the pretext that he wants to take land on lease and when the complainant showed her inability to fulfill the illegal demands of abovenamed accused no.2 he gave merciless beatings to her. It has been further averred by the complainant that abovenamed accused persons had been running the business of making illicit liquor at their residence and the complainant was given the work of filling the said illicit liquor in the bottles and if any mistake was committed by the complainant in this regard then also she was given merciless beatings by the abovenamed accused persons. It has been further averred by the complainant that the abovenamed accused no.3 namely Murti Devi who is the mother-in-law of the complainant also used to torture her for not bringing Rs.40,000/- as demanded by the abovenamed accused persons and used to threaten her that if she does not fulfill their demand then she would be made to have illicit relations with the abovenamed accused no.4. It has been further averred by the complainant that she informed her parents regarding the maltreatment given to her by the accused persons by means of some letters and thereafter, father of the complainant convened a Panchayat in which the abovenamed accused persons admitted their guilt and also promised that they would keep the complainant properly hereafter. It has been further averred by the complainant that however, upon reaching the matrimonial home the attitude of the abovenamed accused persons again turned hostile and they again started torturing and taunting her for not bringing

Rs.40,000/- as was demanded by them. It has been further averred by the complainant that out of her wedlock with accused no.1 two daughters were also born and it has been further averred by the complainant that in the month of May, 2001 she was thrown out of her matrimonial house by the abovenamed accused persons for not bringing the alleged Rs.40,000/- demanded by them. It has been further averred by the complainant that thereafter, her father convened a panchayat on 14.11.02 at Kishanpurar, Panipat, wherein the complainant pleaded before the abovenamed accused persons to keep her properly with them or else they should return her Stridhan, whereupon the abovenamed accused persons flatly refused to do the needful and thereafter, the complainant filed a criminal complaint against the abovenamed accused persons under Sections 406 and 498A of I.P.C. However, consequently, the said matter was compromised on 19.12.2002 after the abovenamed accused persons had ensured the complainant they would keep her properly with them. It has been further averred by the complainant that thereafter, the abovenamed accused persons kept her properly with them for about a month and treated her with respect, however, once they were convinced that the case filed by the complainant under section 406 and 498-A of I.P.C. has been completely settled, they again started taunting and torturing her with their illegal demands of dowry. It has been further averred by the complainant that thereafter, on the Teej Festival when

her father came to her matrimonial house the abovenamed accused persons maltreated him and the abovenamed accused no.4 Bhim Singh threatened him with dire consequences. It has been further averred by the complainant that the abovenamed accused persons in collusion with each other kept on torturing and taunting her for not bringing sufficient dowry and when she again complained about the same to her father, he alongwith police of Police Station Assandh saved her from the clutches of the abovenamed accused persons and took her alongwith him to her parental home. On the basis of these averments the complainant prayed the necessary action may kindly be taken against abovenamed accused persons.”

Vide order dated 20.08.2004, the accused were summoned to face trial under Sections 406 and 498-A of IPC.

The accused were charge-sheeted under Section 498-A of IPC to which they did not plead guilty and claimed trial.

In the post charge evidence, the complainant has examined herself as CW-1, her father Randhir Singh as CW-2 and her uncle Raghbir Singh as CW-3 and closed the evidence.

The statements of the accused were recorded under Section 313 of Cr.P.C. in which all the incriminating circumstances appearing in the prosecution evidence were put to them to which the accused denied and pleaded false implications.

No evidence in defence was led by the accused.

After appraisal of the evidence, the learned trial Court vide impugned judgment dated 24.03.2014, acquitted the respondents. Thus, the present application under Section 378(4) Cr.P.C for grant of Special Leave to Appeal against the judgment dated 24.3.2014.

It is contended by the learned counsel for the applicant/appellant that the Court below has not properly appreciated the facts. The trial Court has ignored the relevant evidence produced on record by the complainant. The version of the complainant has been corroborated by CW-2 and CW-3.

It has been informed by the learned counsel for the respondents that the complainant/wife has since remarried.

Heard.

It has been noticed by the trial Court that the complainant, her father and her maternal uncle have all failed to tell the exact date, month or year of the alleged maltreatment given by the accused. They have even failed to state the date, month and year in which the alleged demand of Rs.60,000/- was made by the accused. Not only that, CW-2, father of the complainant has even failed to narrate the date, month and year when the alleged amount of Rs.20,000/- was handed over to the respondents. The allegations of maltreatment, cruelty and demand of dowry lack specificity with regard to time. This Court is of the opinion that the allegations regarding cruelty and maltreatment should be specific. The complainant has raised general allegations against the accused which remain

unsubstantiated. Thus, this Court finds itself in agreement with the view taken by the trial Court.

It is a settled law as has been held in *C. Antony Vs. K.G. Raghavan Nair*, 2002(4) RCR (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 in his favour; first the 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 mis-appreciation of evidence or apparent violation of settled canons of criminal jurisprudence.”

Consequently the Special Leave to Appeal is hereby

declined.

04.12.2017.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No