

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

CRM-A-949-MA-2015 (O&M)

Date of decision : 20.07.2017

Smt. Ritu @ Renu

...Applicant-Appellant

Versus

Hardeep and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ram Pal Verma, Advocate
for the applicant-appellant.

JITENDRA CHAUHAN, J. (Oral)

This special leave to appeal is directed against the impugned judgment dated 31.03.2015 passed by learned Judicial Magistrate 1st Class, Fatehabad, whereby the accused-respondents were acquitted of the charges framed against them under Sections 498-A, 406, 323 and 506 of IPC.

It is contended that the learned trial Court erred in passing the impugned judgment of acquittal in the face of specific allegations of demand of dowry and harassment against the respondents. The learned trial Court acquitted the respondents on the basis of minor contradictions in the statement of applicant-appellant and her witnesses and that if the statement are recorded after lapse of time, then these minor contradictions are bound to occur.

I have heard the learned counsel and perused the entire record on file.

As per the case of the applicant-appellant, the respondents harassed the applicant-appellant and gave beatings to her for non-fulfillment of demand of dowry i.e. Rs.5,00,000/- and a car. Thereafter, a Panchayat was convened by the father of the applicant-appellant, wherein the respondents had refused to keep the applicant-appellant until non-fulfillment of their demand of Rs.5,00,000/- and a car. To prove her case, the applicant-appellant got examined her father i.e. CW2-Ranbir Singh and CW3-Shamsher Singh. However, the learned trial Court had observed certain material contradictions in the statement of these witnesses and of the applicant-appellant with regard to demand of dowry. Even the incident dated 18.12.2011, when the respondents attempted to kill the applicant-appellant did not find any mention in the applications filed before the competent authorities before the filing of the present complaint. No satisfactory explanation was given by the applicant-appellant for non-disclosure of this fact in the statement/application. Moreover, no MLR was brought on record as it is alleged by the applicant-appellant that she was regularly beaten by the respondents and on every occasion, she got the MLR prepared. Thus, the Court feels that the story put forth by the applicant-appellant appears to be highly improbable.

In **Chandrappa and Ors. v. State of Karnataka, 2007 (4) SCC 415**, the following general principles regarding powers of the

appellate court while dealing with an appeal against an order of acquittal were culled out:

- “(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.*
- (2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.*
- (3) Various expressions, such as, "substantial and compelling reasons," "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.*
- (4) 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.*
- (5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”*

Keeping in view the above, the finding of acquittal recorded by the trial Court cannot be said to be perverse or contrary to the material on record. In fact, there is no infirmity in the reasoning assigned by the trial Court in acquitting the respondents. This Court feels that the learned

Judicial Magistrate 1st Class, Fatehabad has passed the impugned judgment dated 31.03.2015 after appreciating the entire facts and circumstances of the present case and no other view is possible.

Accordingly, the present special leave to appeal is hereby declined.

Dismissed.

20.07.2017

ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No