

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 184 of 2001**

- The State Of M.P. (Now Chhattisgarh) through Police Station Mahila Thana, Durg.

---- Appellant**Versus**

1. Tahal Singh son of Gurunam Singh, aged about 30 years, Caste Sikh,
2. Gurukaur wife of Gurunam Singh, aged about 50 years,
3. Charanjeet Kaur, daughter of Gurunam Singh aged about 20 years,
4. Amarjeet Kaur, daughter of Gurunam Singh aged about 19 years,

All resident of Near New Khursipar Vegetable Market Bhilai.

---- Respondents

For Appellant/State	: Ms. Madhunisha Singh, P. L.
For Respondents	: Shri Jaideep Singh Yadav, Advocate

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****16/07/2019**

- (1) This criminal appeal is filed by the State against the judgment of acquittal dated 25.07.2000 passed by Chief Judicial Magistrate, Durg in **Criminal Case No. 2571/96**, acquitting the respondents No. 1 to 4/accused persons of the offences punishable under Sections 498-A and 323 of the Indian Penal Code & under Sections 3 and 4 of the Dowry Prohibition Act, 1961.
- (2) Prior to filing of this appeal, complainant/wife of the respondent No. 1- Tahal Singh filed a Criminal Revision No. 1252/2000 in the matter of

Rajvinder Kaur Vs. Tahal Singh against the same order, which was dismissed by this Court on 17.03.2010 for want of prosecution.

(3) Briefly stated case of the prosecution is that on 09.10.1994, respondent No. 1-Tahal Singh was married to Rajvinder Kaur and immediately after the marriage, respondent No. 1- Tahal Singh and his family members namely Guru Kaur, Charanjit Kaur & Amarjeet Kaur, who are mother-in-law & sisters-in-law of complainant- Rajvinder Kaur started harassing her in connection with demand of various articles i.e. maruti Van, washing machine and dining table, which had not been given at the time of marriage as dowry. Further case of the prosecution is that on 14.01.1995, the father of complainant reached the house of the Tahal Singh (respondent No. 1) where the family members of Tahal Singh quarreled with him thereafter on evening time father of complainant took her to parental house Dallirajdra. On 24.04.1995, complainant's mother-in-law- Guru Kaur and sister-in-law- Charanjeet Kaur brought her back to her matrimonial house at Bhilai but again they are started threatening her regarding demand of dowry. Due to this continue torture, on 08.10.1995 complainant with her father went to Mahila Thana Durg and lodged the report against them.

(4) As per settled law, the police conducted counseling proceedings on 22.02.1996, in the said proceeding one compromise agreement was executed between the parties with an assurance that no ill treatment would be meted out to her but nothing has been done according to that agreement and on 23.07.1996 the complainant was again assaulted by respondent No 1 and his family members, and thereafter, after this incident she came to her parental house and with her father she lodged a written complaint vide Ex. P/1, on the basis of written complaint FIR (Ex. P/2) was lodged at Mahila Thana, Durg against the all four accused persons and MLC was conducted by Dr. V. S. Bhaghel (PW-8) on 02.08.1996 in which he opined that various injuries were found in abdomen, back, chest and other parts of the body of the complainant.

(5) After usual investigation, charge-sheet was filed against all four accused under Section 498-A, 323 of IPC alongwith Sections 3 & 4 of Dowry Prohibition Act.

(6) Learned Trial Court framed charges against all the accused under Sections 498-A, 323 of IPC alongwith Sections 3 & 4 of Dowry Prohibition Act.

(7) After framing of charges, the prosecution examined as many as 8 witnesses namely Rajvinder (PW-1), Guljar Singh (PW-2), Trilok Singh (PW-3), Narender Kaur (PW-4), Aatma Singh (PW-5), Mahender Singh (PW-6), Beena Khirvatak (PW-7) and Dr. V. S. Bhaghel (PW-8) in support of its case statements of the accused are also recorded under Section 313 of Cr.P.C in which they denied the circumstances appearing against them in the prosecution case and pleaded innocence and false implications. In support of their case they examined four defence witnesses namely- Nand Singh (DW-1), Mahendra Singh (DW-2), B. V. Sundarrao (DW-3) and S. K. Narad (DW-4).

(8) Learned counsel for the state/appellant submits that in this case the learned Trial Magistrate erred in acquitting the respondents No. 1 to 4 by ignoring all the evidence and material available on record. He further submits that after solemnization of marriage the complainant was being continuously tortured by the respondent No. 1 and his family members in connection with demand of dowry, and due to this torture, she firstly complained regarding cruelty with her to her father and went to her parental house. However, after On being some amicable settlement, she returned back to her matrimonial house but this time, she was again assaulted by her husband, mother-in-law and sisters-in-law. Thereafter, she came to her parental house and lodged the FIR (Ex. P/2). her MLC (Ex.P/4) also supports her statement. Treating doctor has also proved & supported her MLC report. Learned counsel for the appellant/State further submits that prosecution witnesses examined before the trial Court have already supported the case of the prosecution and, therefore, the learned trial Court has committed grave legal error in acquitting the respondents of the offences alleged against them.

(9) Learned counsel for the respondents would submit that the alleged dispute arose between the husband and wife because the respondent No. 1 is only earning member of his family and his father was paralyzed due to which he is unable to do his daily natural work, and two unmarried sisters were living with the respondent No. 1 and, therefore, looking to the entire responsibility of the family members and over burden of work, the complainant does not want to reside with the family of respondent No. 1/husband. He also submits that many times the complainant provoked her husband/respondent No. 1 to live separately and in this regard the respondent No. 1 examined four defence witnesses, who are neighbours

and relating to his job and life. He further submits that in the written complaint of complainant, she has falsely implicated the entire family of respondent No. 1 regarding demand of dowry whereas no demand of dowry was made prior to their marriage and after marriage and no any evidence or records are available or proved in that regard by the complainant. He further submits that treating Dr. R. S. Bhaghel (PW-8) has proved the medical report (Ex. P/4) of complainant and found simple injuries on the body of the complainant. As per statement of complainant – Rajvinder Kaur, she sustained injuries on 29.07.1996 but as per the statement of Dr. R. S. Bhaghel (PW-8), the injuries sustained by the complainant was prior to 25 to 30 hours before the MLC conducted, therefore, it is not correlated with the incident happened on 23.07.1996 and, therefore, learned trial Magistrate has rightly acquitted the respondents No. 1 to 4 of the alleged offences. He placed reliance on the decision of Supreme Court in the Matter of **Mohinder Singh Vs. The State of Punjab**, passed in Criminal Appeal No. 2182 of 2010, decided on 14th August, 2018

(10) I have heard learned counsel appearing for the parties, and perused the impugned order.

(11) It is not disputed that respondent No. 1 -Tahal Singh is the husband of complainant -Rajvinder Kaur and within two years of marriage they got separated from each other due to some dispute between family members of the respondents with the complainant. As per document Ex. D/1, compromise was effected between husband and wife on 22.2.1996; complainant again come at her matrimonial house. In paragraphs No. 10 to 18 of the impugned judgment, learned trial Court has appreciated the aforesaid statement stating that on 14.01.1995 when father of the complainant came for taking Rajvinder Kaur at home, on that day no assault was made by the respondents. On 23.07.1996 respondent No. 1- Tahal Singh along with his family members assaulted and quarreled with the complainant but no any police complaint to this effect was made by the complainant on that day whereas she made complaint on 30.07.1996 before the police station and on that day no injuries were found by the concerned investigating officer on the body of the complainant. This fact has been admitted by the complainant in paragraph 6 of her statement and, thereafter, on 02.08.1996 medical examination was conducted by Dr. V.S. Baghel (PW-8) on request of in-charge police Station. As per medical report (Ex. P/3) injuries on legs and hand were found and only one bruise injury

size 2" x 1" was found on the body of the complainant and she was complaining pain on her back but no any internal injury was found.

(12) Looking to the statement of Dr. R. S. Bhaghel (PW-8), the injuries found on the body of the complainant were caused 25 to 80 hours before when she was examined by the doctor, it is not correlated with the date on which the respondents assaulted the complainant. Therefore, that injury found on the body of Rajvinder one bruise as mentioned in Ex.P/4 is not correlated with the incident.

(13) As per evidence of the defence witnesses there was no specific dispute between the parties in connection of demand of dowry. In the agreement dated 22.02.1996 (Ex.D/1) the accused and complainant/wife four conditions were there on behalf of the complainant/wife i.e. (i) she would be taken to Dallirajaa in every 2-3 months subject to grant of leave, (ii) not to behave badly being instigate by others, (ii) she may be taken outside occasionally and kept properly and (iv) she be allowed to have talk with her parents on phone. Apart from this there were four conditions put forth by the accused/husband. From perusal of this agreement (Ex. D/1) it is quite clear that there was no dispute between the parties regarding demand of dowry.

(13) In the matter of **Mohinder Singh Vs. The State of Punjab** in **Criminal Appeal No. 2182 of 2010 dated 14.08.2018** while considering the issue of appeal against the acquittal observed as under:

“15 In an appeal against acquittal, the High Court will not interfere unless there are substantial and compelling reasons to reverse the order of acquittal. The mere fact that on reappraisal of evidence the appellate Court is inclined to arrive at a conclusion which is at variance with the trial Court, the same cannot be the reason for interference with the order of acquittal. After referring to various judgments in **Chandrappa and others V. State of Karnataka (2007) 4 SCC 415**, this Court summarised the general principles regarding the powers of the appellate Court while dealing with an appeal against the order of acquittal and held as under:-

“42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate Court while dealing with an appeal against an order of acquittal emerge:

(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 put 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 emphasis 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.”

The same principles were reiterated in number of judgments viz. **Jugendra Singh v. State of Uttar Pradehs (2012) 6 SCC 297, State of Uttar Pradesh V. Ram Sajivan and Others (2010) 1 SCC 529, Bhaskar Ramappa Madar and others V. State of Karnataka (2009) 11**

SCC 690, Chandrappa and Others V. State of Karnataka (2007) 4 SCC 415 and other judgments.

(14) Thus, considering the overall evidence and circumstances of the case, the conduct of the complainant/wife, the nature of dispute between the parties, this Court is of the opinion that the Trial Court has not committed any illegality in acquitting the accused of the charges under Section 498-A, 323 of IPC and Dowry Prohibition Act, 1961. Even otherwise it is a well settled principle of law in the judgment of acquittal should normally not to be interfered with until and unless it is found that the finding of acquittal has been recored by ignoring the relevant material available on record and considering the irrelevant ones. However, no such irregularities or infirmity is found in the present case requiring interference by this Court.

(15) Consequently, the criminal appeal, being devoid of merit is liable to be and is hereby dismissed.

Sd/-

(Gautam Chourdiya)
Judge