

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

225

CRR-4276-2017 (O&M)

Date of Decision:02.07.2019

Anita

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Ms. Parveen Dutt, Advocate for
Mr. S.K. Panwar, Advocate,
for the petitioner.**

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present revision petition against the judgment dated 31.08.2017 passed by learned Additional Sessions Judge, Palwal, whereby her appeal against the judgment of acquittal dated 19.08.2016 passed by learned Judicial Magistrate 1st Class, Hodal, in FIR No.103/2011 under Sections 498-A, 406, 323, 506, 120-B IPC, registered at Police Station Hassanpur, acquitting respondent No.2-accused, was dismissed.

The petitioner was married with respondent No.2-Mahesh on 12.02.2010. In the marriage, sufficient dowry articles were given by the father of the petitioner, but as the accused were not happy with the dowry articles given in the marriage, they harassed the petitioner. The accused have pressurised the petitioner to fulfill their unlawful demand of more dowry and cash of Rs.1,50,000/-. But as the parents of the petitioner declined to fulfill their unlawful demand, the petitioner was given physical

narrated the whole story to her husband regarding the harassment given by his family members, but even then he did not pay any heed towards the genuine problem of the petitioner. Rather, he also forced the petitioner to enter into compromise with his family members. Respondent Nos.6 and 7, Lekh Ram and Hans Raj have also instigated the other accused in harassing the petitioner, so that she could bring more dowry. The petitioner who was pregnant, her delivery took place at her parental home and all the expenses were incurred by her parents.

After completion of investigation, report under Section 173 Cr.P.C. was filed in the Court. The copy of the report was supplied to the accused, as envisaged under Section 207 Cr.P.C. Finding a prima facie case against the respondents-accused, they were charge-sheeted for the commission of offences punishable under Sections 498-A, 406, 506, 323, 120-B IPC, to which they did not plead guilty and claimed trial.

In support of its case, the prosecution examined Amar Chand as PW1, petitioner-complainant as PW2, SI Narain as PW3, Constable Ranjeet as PW4, Umed Singh as PW5 and Bhushan as PW6.

Thereafter, statement of respondent No.2 was recorded under Section 313 Cr.P.C. wherein he denied all the allegations levelled against him and pleaded innocence, but he did not lead any evidence in defence.

After conclusion of evidence produced by both the parties and hearing their respective evidence, learned trial Court had acquitted the respondent No.2 of the charge framed against him vide impugned judgment dated 19.08.2016.

Aggrieved against acquittal of the respondent No.2, the petitioner-complainant preferred an appeal before the Court of Sessions, but

the said appeal was dismissed by learned Additional Sessions Judge, Palwal vide judgment dated 31.08.2017.

It is in these circumstances, the petitioner-complainant has filed the present revision petition.

Learned counsel for the petitioner has argued that the accused have harassed the petitioner for bringing insufficient dowry as they wanted more dowry to get extracted. The accused are quarrelsome persons. She refers to FIR No.23 dated 10.02.2010 under Sections 498-A, 323, 506 IPC, registered at Police Station Barsana, District Mathura, U.P.

Heard learned counsel for the petitioner.

At the outset, it would be relevant to mention here that there are concurrent findings given by the Courts below in favour of respondent No.2. The scope of revisional jurisdiction is vested with limited powers. Hon'ble Supreme Court in ***Johar and others Versus M/s Mangal Prasad and another, 2008(3) SCC 423*** while dealing with the scope of revisional jurisdiction, has observed as under:

“17. The approach of the High Court to the entire case cannot be appreciated. The High Court should have kept in mind that while exercising its revisional jurisdiction under section 397 and 401 of the Code of Criminal Procedure, it exercises a limited power. Its jurisdiction to entertain a revision application, although is not barred, but severally restricted, particularly when it arises from a judgment of acquittal.”

In ***Venkatesan Versus Rani and another 2013(4) RCR (Criminal) 919***, the Apex Court has held that while examining an order of acquittal, the revisional jurisdiction of the High Courts is extremely limited and the same should be exercised only in case where the trial Court had

ignored relevant and material evidence. The language of Section 401 Cr.P.C. makes it amply clear that there is no power vested in the High Court to convert a finding of acquittal into one of conviction. The relevant paragraph No.7 of the said judgment reads as under:

“7. The above consideration would go to show that the revisional jurisdiction of the High Courts while examining an order of acquittal is extremely narrow and ought to be exercised only in cases where the Trial Court had committed a manifest error of law or procedure or had overlooked and ignored relevant and material evidence thereby causing miscarriage of justice. Re-appreciation of evidence is an exercise that the High Court must refrain from while examining an order of acquittal in the exercise of its revisional jurisdiction under the Code. Needless to say, if within the limited parameters, interference of the High Court is justified the only course of action that can be adopted is to order a re-trial after setting aside the acquittal. As the language of Section 401 of the Code makes it amply clear there is no power vested in the High Court to convert a finding of acquittal into one of conviction.”

After perusing the judgment passed by learned Courts below, there is a categorical finding that PW2(Anita) who is petitioner herein in her complaint, she did not make any allegation of entrustment and in the absence of any specific entrustment, there could not be any misappropriation. No recovery of dowry articles is required to be made as all the articles had already been deposited in the police station. There were certain disputes between the petitioner and her husband-Mahesh. In the complaint, there are allegations that the petitioner was given beatings by all the accused and her own brother PW6-Bhushan has stated that due to

was drawn out from the injuries as the accused cut the gold bangles of the petitioner with scissors and the petitioner sustained injury marks. However, this question was not found tenable by the trial court on the ground that in case the petitioner sustained such injuries, which led to oozing of the blood from the injuries, then she must have undergone for the medical examination. But no such medical evidence has been brought on record. In the absence of any specific entrustment and there being no medical evidence brought on record by the petitioner regarding injury, this Court finds that the judgments passed by learned Courts below does not require any interference.

It is a settled law that the prosecution is required to prove its case beyond all probabilities. The accused is considered to be innocent unless proved guilty by the prosecution by leading cogent evidence. However, in the present case, the petitioner-complainant has not been able to prove his case against respondent No.2 beyond shadow of reasonable doubt. The petitioner-complainant has also not been able to prove that in what manner, impugned judgments passed by the Courts below suffer from illegality, irregularity or perversity which may warrant interference of this Court by invoking its revisional jurisdiction.

Accordingly, the judgment of acquittal dated 19.08.2016 passed by learned Judicial Magistrate 1st Class, Hodal and the judgment dated 31.08.2017 passed by learned Additional Sessions Judge, Palwal are affirmed and the present revision petition, being devoid of any merit, is dismissed.

July 02, 2019

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(HARI PAL VERMA)

JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No