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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-2296-2019 (O&M)
Date of Decision: 16.12.2019.

State of Haryana

... Applicant/Appellant

Versus

Sonu

... Respondents

CORAM : HON'BLE MR. JUSTICE JITENDRA CHAUHAN
HON'BLE MRS. JUSTICE ARCHANA PURI

Present : Mr. Vivek Saini, D.A.G., Haryana
for the applicant/appellant.

JITENDRA CHAUHAN.J.(ORAL)

This is application under Section 378(3) of Code of Criminal Procedure seeking leave to appeal against the judgment of acquittal dated 17.12.2018, passed by Learned Additional Sessions Judge-cum-Special Judge, Rohtak vide which the accused-respondent stands acquitted in case FIR No.310 dated 14.07.2017 filed under Sections 498-A & 304-B IPC.

Brief facts of the present case as noticed as noticed in paragraph No.2 of the impugned judgment are as under:-

“Briefly stated the facts of the present case has been laid by complainant Rajesh Kumar, who moved an application Ex.P1 to the police disclosing therein that on 25.03.2017, her sister Meena performed Court marriage with Sonu son of Virender, resident of village Titoli. After one and half month of the marriage, all things remained

well but later on, Sonu, his mother Sheela, father Virender and brothers Rakesh and Rohit had harassed and maltreated his sister Meena and did not give food to her and Meena became weak. The entire story was told by Meena to his sister Savita on telephone. On 14.07.2017, at about 3.00 p.m., he received an information that his sister Meena had ended her life by hanging. On this, he along-with his family reached at village Titoli where his sister Savita told that accused Sonu and his family used to harass Meena for dowry and about three days ago, they maltreated his sister and due to that Meena had ended her life by hanging. He prayed to take appropriate action against the culprits”.

After appraisal of the evidence, the learned trial Court vide judgment dated 17.12.2018, acquitted the respondent of the charges.

Hence the instant application.

Heard.

The Court below has acquitted the accused/respondent on the ground that the demand of dowry was not proved by the prosecution. It has also been noticed by the trial Court that it was a love marriage and the couple had sought direction against their respective families. The family of the girl was not on visiting terms with the family of the accused. There is no direct evidence with regard to the occurrence. The prosecution could produce Savita PW-3, as it is the witness who has deposed that the deceased used to talk with her regarding the nature of her husband. However, nothing has come on record with regard to any specific demand of dowry. The allegations lack specificity.

This Court has re-scanned the entire evidence available on record and finds that the judgment of acquittal has been rightly passed.

There is no perversity or illegality in the impugned judgment.

Even otherwise, 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.

Similarly, in '**Anil Kumar Gupta Vs. State of U.P., 2011 AIR (SC) (Criminal) 922**, Hon'ble the Supreme Court has held as under:-

*“8. Shri R.K. Shukla, learned senior counsel appearing for the appellant mainly contended that the High Court in the process of reappreciating the evidence, ignored the vital evidence on record which proves the innocence of the appellant. It was submitted that the approach of the High Court is completely contrary to the decision of this Court in '**Ramesh Babulal Doshi v. State of Gujarat, 1996(3) R.C.R.(Criminal) 188 : (1996) 9 SCC 225**' which was followed by this Court in '**Dwarka Das & Ors. v. State of Haryana, 2002(4) R.C.R. (Criminal) 794 : (2003) 1 SCC 204**' The submission was that the High Court miserably failed to examine the reasons given by the trial Court for recording the order of acquittal.*

9. Learned counsel for the State of U.P. supported the impugned judgment mainly relying on the circumstances that on that fateful night, the appellant alone was in the company of the deceased and it is one of the strong circumstances to hold that it is the appellant who administered poison to the deceased.

10. In Ramesh Babulal Doshi, this Court held that "the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence, cannot constitute a valid and sufficient ground to interfere an order of acquittal unless it

comes to the conclusion that the en approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal, the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are pal ably wrote, manifestly erroneous or demonstrably unsustainable. If the appellate Court answers the above question in the negative, the order of acquittal is not to be disturbed. Conversely, if the appellate Court holds, for reasons to be recorded, that the order of acquittal cannot at all be sustained in view of any of the above infirmities it can then-and then only- reappraise the evidence to arrive at its own conclusions".

11. In Dwarka Das, this Court following the decision in Ramesh Babulal Doshi, further observed that 'there cannot be any denial of the factum that the power and authority to appraise the evidence in an appeal, either against acquittal or conviction stands out to be very comprehensive and wide, but if two views are reasonably possible, on the state of evidence: one supporting the acquittal and the other indicating conviction, then and in that event, the High Court would not be justified in interfering with an order of acquittal, merely because it feels that it, sitting as a trial court, would have taken the other view. While reappreciating the evidence, the rule of prudence requires that the High Court should give proper weight and consideration to the views of the trial Judge. But if the judgment of the Sessions Judge was absolutely perverse, legally erroneous and based on a wrong appreciation of the evidence, then it would be just and proper for the High Court to reverse the judgment of acquittal, recorded by the Sessions Judge, as otherwise, there would be gross miscarriage of justice".

12. In Chandrappa & Ors. v. State of Karnataka, 2007(2) R.C.R.(Criminal) 92 : 2007(1) R.A.J. 841 : (2007) 4 SCC 415 this Court reappreciating the aforesaid principles, further observed that "in case of acquittal, there is a double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle

of criminal jurisprudence that every person should be presumed to be innocent unless he is proved to be guilty by a competent court of law. Secondly, the accused having secured an acquittal, the presumption of his innocence is certainly not weakened but reinforced, reaffirmed and strengthened by the trial Court. Though the above principles are well established, a different note was struck in several decisions by various High Courts and even by this Court. It is, therefore, appropriate if we consider some of the leading decisions on the point". Having stated so, this Court also held that an appellate Court has full power to reappraise, review and reconsider the evidence upon which the order of acquittal is founded. But it is well established that if two views are possible on the basis of evidence on record and one favourable view to the accused has been taken by the trial Court, it ought not to be disturbed by the appellate Court."

Moreover, there is delay of 156 days in filing the application for leave to appeal against the judgment for acquittal. No cogent reason has been put forth for condoning the delay.

In view of the above, the instant application is dismissed on the ground of delay as well as on merits.

Leave declined.

(JITENDRA CHAUHAN)
JUDGE

(ARCHANA PURI)
JUDGE

16.12.2019

ps-I

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No