

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P.No.731 of 2020**

State of Chhattisgarh, Through its Station House Officer, Police Station Chhawani, District Durg (CG)

----- Appellant

Versus

1. Surendra Singh Chhabda, S/o Kartar Singh Chhabda, aged about 37 years, resident of Camp 2, Shardapara, Police Station Chhawani, Bhilai, District Durg (CG)
2. Kartar Singh Chhabda, S/o Sevak Singh Chhabda, aged about 64 years,
3. Harbhajan Kaur, W/o Kartar Singh Chhabda, Aged about 53 years,
4. Banti @ Indrajit Singh, S/o Kartar Singh Chhabda, aged about 36 years,

The respondents No.2 to 4 are residents of Gurunanak Nagar, Street No.7, Sweety Villa, Bhilai, Police Station Supela, District Durg (CG)

----- Respondents

For Petitioner : Mr.Ravi Bhagat, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

22.05.2020

1. Heard on I.A.No.01/2020 for condonation of delay in filing the appeal.
2. On due consideration, I.A.No.01/2020 is allowed. Delay in filing the appeal is hereby condoned as sufficient cause has been shown for delay in filing the appeal.
3. Also heard on admission.

4. This CrMP under Section 378(1) of the CrPC is directed against the judgment of acquittal dated 29.6.2019 passed by the 8th Additional Sessions Judge, Durg, in Sessions Trial No.138/2017, whereby learned trial Court acquitted the respondents herein from the charges punishable under Sections 306/34 and 498A/34 of the IPC.
5. The respondents herein namely, husband, father-in-law, mother-in-law and brother-in-law were charge-sheeted for the aforesaid offences stating inter-alia that marriage of deceased Mandip Kaur Chhabda and respondent No.1-Surendra Singh Chhabda was solemnized in June, 2007 and on 05.12.2016, she committed suicide, she was taken to Sector-9 hospital, Bhilai by respondent No.1 where she declared dead. On the complaint of Gyan Kaur Bhalla, FIR in Crime No.744 of 2016 was registered at Police Station Chhawani for the aforesaid offences. The respondents herein were charge-sheeted, in which they abjured the guilt and entered into trial. After full-fledged trial, the trial Court acquitted the respondents herein holding that the prosecution has failed to bring home the offences against the respondents.
6. Mr. Ravi Bhagat, learned Deputy Government Advocate

appearing for the petitioner/State, would submit that the trial Court is absolutely unjustified in acquitting the respondents from commission of offences under Sections 306/34 and 498A/34 of the IPC. He would further submit that contradictions and omissions are trivial in nature and as such, by recording a finding of acquittal overlooking the material evidence, manifest error has committed by the trial Court, which deserves to be set aside.

7. I have heard learned Deputy Government Advocate for the petitioner/State and perused the impugned judgment of acquittal and other documents.

8. The Supreme Court in the matter of **Tulsiram Kanu v. The State**¹ has held that the appellate court would be justified in reversing the acquittal only when very substantial question and compelling reasons are present.

9. Recently, the Supreme Court in the matter of **Satish Kumar v. The State of Himachal Pradesh**² following the principle of law laid in the matter of **Chandrappa and others v. State of Karnataka**³ has held as under:-

"11.....This Court in Chandrappa and Others v. State of Karnataka [2007 (4) SCC 415] considered

1 AIR 1954 SC 1

2 2020 SCC OnLine SC 267

3 2007(4) SCC 415

the scope of powers of the appellate court against an order of acquittal passed by the trial court under the code and held as under:-

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

(1) An appellate Court has full power to review, re-appreciate 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 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."

10. Thus, it is quite vivid that this Court (High Court) should not re-appreciate the evidence on record and come to a different conclusion by interfering with the order of acquittal except in cases where the interest of public justice requires interference for correction of a manifest illegality or the prevention of gross miscarriage of justice. The interference with the order of acquittal passed by the trial Court is limited only to exceptional cases when it is found that the order suffers from glaring illegality or has caused miscarriage of justice or when it is found that the trial court has no jurisdiction to try the case or where the trial court has illegally shut out the evidence which otherwise ought to have been considered or where the material evidence which clinches the issue has been overlooked.

11. Applying the principle of law laid down by the Supreme Court in Chandrappa (supra) followed in Satish Kumar (supra) to the facts of the present case, it is quite vivid that 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.

- 12.** The trial Court has considered the statements of Smt.Gyan Kaur Bhalla (PW-1), mother of the deceased, Tejbahadur Singh Bhalla (PW-2), brother of the deceased, Jaspal @ Jagpal Singh (PW-3), brother-in-law of the deceased and Ravindar Singh (PW-4), brother-in-law of the deceased and clearly recorded a categorical finding that demand of dowry by the respondents has not been proved. Smt.Gyan Kaur Bhalla (PW-1) in her cross-examination has clearly stated that no demand of dowry was made by the respondents at the time of marriage and further stated that the deceased was unhappy and little bit disturbed on account that they had no issue after 9 years of marriage. It has also been admitted that they were helping economically for setting the business of respondent No.1 (husband of the deceased). Similarly, Tejbahadur Singh Bhalla (PW-2) has also stated that no demand of dowry was made by the respondents. He has also admitted that they were helping economically to respondent No.1 for setting his business. Ravindar Singh (PW-4) has also not stated anything about demand of dowry or any cruelty

committed by the respondents. He has also stated that they were helping economically to respondent No.1 for setting his business. Smt.Lavlin Kaur (PW-6), Vijay Kumar (PW-7), Smt.Malti Pal and Omprakash Gupta (PW-11) were turned hostile.

13. On the basis of appreciation of oral and documentary evidence available on record, the trial Court has acquitted the respondents herein from the aforesaid charges as one of the possible view has been taken by the trial Court, in which I do not find illegality or perversity following the judgments of the Supreme Court noticed hereinabove.

14. As a fallout and consequence of the aforesaid discussion, the instant CrMP being devoid of merit is liable to be and is hereby dismissed in *limine* at admission stage by declining to grant leave to appeal.

Sd/-

(Sanjay K.Agrawal)
Judge

B/-