

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(220)

CRR-4272-2017

Date of Decision: 01.04.2022

Kulwinder Kaur

--Petitioner

Versus

State of Punjab and another

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present:- Mr. Sandeep Arora, Advocate
for the petitioner.

RAJESH BHARDWAJ.J

By way of this revision petition, petitioner has assailed the order dated 28.10.2016 passed by the learned Chief Judicial Magistrate, Jalandhar whereby respondent No.2, namely, Princi, has been acquitted of the charges under Sections 406 and 498-A IPC for which she was prosecuted and the order passed by the learned Additional Sessions Judge, Jalandhar dated 23.08.2017 whereby in an appeal filed by the petitioner, the acquittal order passed by the learned Chief Judicial Magistrate has been upheld.

As per the facts of the case, petitioner is the author of the FIR wherein it was alleged that she was married with Tilak Raj son of Dev Raj on 25.08.2008. She alleged that her husband Tilak Raj was a permanent resident of U.K. and her father is blind for the last 24 years. Her marriage was solemnized on the demand of her sister-in-law i.e. the respondent. On the assurance of the sister-in-law, the marriage was performed with Tilak Raj. After the marriage, her in-laws demanded Bullet Motorcycle. She used to be beaten by her sister-in-law i.e. the respondent. Her in-laws used to

harass her on account of bringing insufficient dowry. After the marriage, she came to know that her husband was already married and later on, he was divorced. On the allegations of harassment and cruelty, the FIR was lodged for taking legal action against the culprits. The investigation commenced and challan was presented. Her husband Tilak Raj was declared proclaimed offender. The respondent-sister-in-law Princi was prosecuted and tried by the Court. The prosecution in its support produced 11 witnesses besides the other evidence. The petitioner/complainant appeared as PW1, Kulwinder Singh, Member Panchayat of Village appeared as PW-2 and Balbir Kaur sister-in-law of the petitioner/complainant appeared as PW-3. Learned trial Court heard the arguments and perused the record and found that the allegations against the respondent were general in nature. The evidence for entrustment of dowry also ran short. Resultantly, the respondent No.2 was acquitted of charges. The Appellate Court also re-appreciated the evidence on record, heard the arguments and upheld the acquittal by learned trial Court vide its order dated 28.10.2016.

Learned counsel for the petitioner has vehemently contended that both the Courts have fallen in error in acquitting the accused. It has been contended that there were specific allegations of harassment and cruelty caused by the respondent. He submits that the husband Tilak Raj had been declared proclaimed offender and he was found to be already married and divorced which fact was concealed from the complainant. He further submits that respondent No.2 is sister-in-law and as she is living in a joint family with the complainant, the complainant was beaten and harassed by her. He submits that there is evidence on record showing the entrustment of dowry and thus, both the Courts below have fallen in error in acquitting the

accused and hence, the same deserves to be *set aside*.

I have heard learned counsel for the petitioner and perused the records.

As per the case of the prosecution, the petitioner who is the complainant was married to Tilak Raj on 25.08.2008. There were 11 witnesses produced by the prosecution including the complainant and her relatives. The investigating officer was also examined. It is established from the evidence on record that the father of respondent is blind. The husband is permanent resident of U.K. The allegations pertaining to the respondent are general in nature and does not disclose any specific entrustment of dowry to her and hence, the trial Court finding the case not being proved beyond reasonable doubt, acquitted the accused. The evidence was again re-appreciated by the Appellate Court on the appeal preferred by the complainant and another appeal filed by the State. Resultantly, the appeals were dismissed. It is pertinent to note that the respondent-sister-in-law has been acquitted by the trial Court and the said finding has been affirmed by the Appellate Court. Thus, there is a concurrent finding in favour of the respondent-accused. As per the law settled by the Hon'ble Supreme Court in plethora of judgments, it is a settled proposition of law that every accused is assumed to be innocent unless proved guilty. Once the accused is acquitted there lies double the presumption of innocence in his favour. In the case in hand, there is a concurrent finding in favour of the respondent. It has been however, settled by the Hon'ble Supreme Court that in case of acquittal, the higher Courts should not interfere with the acquittal in a casual manner unless it is established before it that there is perversity in the findings arrived at by the trial Court. In the case in hand, this Court finds no

perversity in the findings arrived at by both the Courts below. The law is further settled that if two views are possible then the one which is favourable to the accused should be preferred. Reliance can be placed on Shivaji Chintappa Patil vs State of Maharashtra (2021) 5 Supreme Court Cases 626. In the case in hand, the respondents were charged under Sections 406 and 498-A IPC. After the trial, they were acquitted and the same was upheld by the appellate Court. Hence, there is a concurrent finding of acquittal in favour of the accused-respondents.

In view of the findings arrived at and the law settled by the Hon'ble Supreme Court, this Court finds no perversity in the findings arrived at by the trial Court and also by Appellate Court. The petition being devoid of any merits is hereby dismissed.

01.04.2022
m.sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No