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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-3321-2019

Date of Decision: April 08, 2022

Preeti

.....Petitioner

Versus

Dinesh and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Vivek Khatri, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

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RAJESH BHARDWAJ, J.(ORAL)

Instant petition has been filed by the petitioner-complainant impugning the order dated 29.07.2016 passed by learned JMIC, Sonipat, acquitting respondent No.1 and the judgment dated 30.08.2019 passed by learned Additional Sessions Judge, Sonipat, dismissing the appeal filed by the petitioner affirming acquittal of respondent No.1.

Adumbrated facts of the case are that petitioner-complainant was married with respondent No.1 on 23.11.2009 as per the Hindu Rites and ceremonies. It was alleged that parents of the petitioner spent more than Rs.22-23 lakhs in the marriage, however, the accused persons were not happy with the money spent in the marriage and the dowry items given in the marriage. She was given taunting that she had brought only Rs.3,50,000/- which is not as per their social status and they demanded a big car. She was beaten up and abused by her in-laws. In the complaint, she

Saraswati and her uncle Balbir Singh (Vedwati's husband) in collusion with each other, with an intention to cheat and harass, had misguided her father by stating that respondent No.1-Dinesh was working as a legal adviser in Aquasure Company and was earning Rs.30,000/- per month. However, after the marriage, the same was found to be false. In December 2009 when the accused persons went to her parental home, they demanded Rs.4,85,000/- for purchasing a big car and they were threatened with dire consequences in case their demand is not met with. Her father borrowed Rs.2,50,000/- from his friend Shamsheer Katariad and withdrew Rs.50,000/- from her account to pacify the accused persons but again the accused demanded Rs.8.00 lakhs to which her father expressed his inability. Thus, the harassment and cruelty continued with the complainant. On 13th and 14th October, her father convened a panchayat at the ancestral home of the accused in village Bhadana, Jhajjar, but no settlement could be arrived at. Having no other alternative, the complainant lodged the FIR with the request to take the legal action against the culprits.

On commencement of the investigation, the challan was presented, the accused was chargesheeted. The prosecution produced 13 witnesses in support of its case besides the documentary evidence.

Petitioner-complainant Preeti appeared as PW2 and supported the case of the prosecution regarding harassment and cruelty on account of demand of dowry. Her mother was examined as PW1, who also supported the case of the prosecution. Bharatbhushan was examined as PW3, who was a formal witness to recovery of dowry articles.

After recording of statements under Section 313 Cr.P.C., the

accused also examined five witnesses in their support.

Learned trial Court appreciated the evidence threadbare. Harassment and cruelty, as alleged, were assessed in the light of statutory provisions and the law settled. It was observed that the complainant filed a complaint against her mother-in-law Rajbala, brother-in-law Rajkumar, sister-in-law Naresh Kumari, her real aunt (bua), colleague of her bua Saraswati, husband of bua Balbir and her husband. After a thorough investigation, the allegations against all persons except respondent No.1-husband were found to be without any basis and hence they were found innocent, as a result only respondent No.1 was challaned. On thorough appreciation of evidence, it was found that the allegations levelled were unspecific and indefinite. There was only oral and general allegations, and the same were not corroborated with any authenticated evidence on record. The prosecution had relied on the bank account statement for proving that the money was withdrawn from the account of the complainant, but the same was not sufficient enough for proving the charge against respondent No.1. As a result, charge under Section 498-A IPC was not found to be proved.

Further the ingredients of Section 406 IPC could also not been proved beyond reasonable doubt. Regarding entrustment of the dowry articles, there were only bald allegations which were found to be not sufficient enough for proving the case against the respondent and as a result in the absence of any clear and cogent evidence, the case of the prosecution was found to be not free from doubts and hence, respondent No.1 was acquitted by the learned trial Court vide its order dated 29.07.2016.

Aggrieved by the same, the petitioner preferred an appeal under Section 372 Cr.P.C. impugning the order dated 29.07.2016. The learned

re-appreciated the evidence on record in view of cardinal principal of law and the law settled, learned Appellate Court found no infirmity in the conclusion arrived at by the trial Court and thus, the appeal was dismissed and hence acquittal of respondent No.1 was upheld.

Learned counsel for the petitioner has vehemently contended that both the Courts below have drawn a wrong conclusion in acquitting the accused. It was contended that the prosecution has proved its case beyond reasonable doubt. Learned counsel for the petitioner has submitted that in all, the prosecution produced 13 prosecution witnesses besides the documentary evidence. He has submitted that the allegations were specific and the harassment and cruelty caused to the complainant was proved beyond reasonable doubt. He has submitted that respondent no.1 alongwith his family members taunted the complainant for having not brought the sufficient dowry. The family members of respondent No.1 misbehaved with the petitioner by using abusive language. It was also contended that the petitioner found some objectionable photographs of respondent No.1 with a girl in his mobile phone. He contends that the petitioner was driven out of the matrimonial home on account of demand of dowry and hence her harassment and cruelty was duly proved by the petitioner by leading cogent evidence, which have been mis-interpreted by the Courts below. He has submitted that as the findings arrived at are totally based on misreading the evidence, both the judgments deserve to be set aside by convicting respondent No.1 for the charge under Section 498-A IPC.

Learned State counsel while supporting the contentions of learned counsel for the petitioner has submitted that although respondent

any revision against his acquittal.

Heard.

Petitioner was married with respondent No.1 on 23.11.2009. In support of the case, the prosecution produced 13 prosecution witnesses alongwith documentary evidence. The petitioner-complainant appeared as PW-2. Her mother has appeared as PW-1. On appreciation of evidence produced, it has been found that the allegations were vague, unspecific. There were no reliable evidence produced by the prosecution regarding entrustment of the dowry items except the oral evidence. On appreciation of the overall evidence on record, both the charges framed against the accused under Sections 498-A and 406 IPC were found to be not having been proved beyond reasonable doubt as a result of which the trial Court acquitted the accused, which was upheld by the appellate Court. Thus, the evidence produced and the argument advanced were appreciated by the trial Court which were re-appreciated by the Appellate Court and thus, both the Courts below found the case against the respondents not having been proved beyond reasonable doubt and hence 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 judgements it has been observed that appeal against conviction and that of acquittal rests on two different pedestals. The higher Court can interfere with the findings of the trial Court while acquitting the accused only in case where it observes any perversity in the findings arrived at by the trial Court. It has been further observed by the Hon'ble Supreme Court that as per criminal jurisprudence, there lies a presumption of innocence in favour of the accused until proved guilty. But once the accused is acquitted by the trial Court and order of acquittal is upheld by the

appellate Court, there lies double presumption of innocence in his favour and thus, his innocence is further strengthened after having been granted acquittal by two Courts. Hon'ble the Supreme Court has also settled the law by holding that if there are two views possible in a case then the one which is favourable to the accused should be adopted by the Court. Reliance can be placed on Shivaji Chintappa Patil vs State of Maharashtra (2021) 5 Supreme Court Cases 626. In the case in hand, the respondent was charged under Sections 498-A and 406 IPC. After the trial, he was acquitted and the same was upheld by the appellate Court. Hence, there is a concurrent finding of acquittal in favour of the accused-respondent.

Weighing the facts and circumstances of the present case on the anvil of the law settled by the Hon'ble Supreme Court, this Court finds no infirmity in the conclusion arrived at by both the courts below.

Resultantly, the present petition being devoid of any merit is hereby dismissed.

April 08, 2022
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(RAJESH BHARDWAJ)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No