

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201

CRM-A-817-MA-2011 (O&M)
Date of Decision 11.04.2023

Mohinder Singh

...Appellant

Versus

Dinesh Singh and another

... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Arun Abrol, Advocate
for the appellant.

Mr. R.S.Manhas, Advocate
for respondent No. 1.

Mr. M.S. Bajwa, DAG, Punjab
for respondent No. 2.

N.S.SHEKHAWAT, J.

The complainant has preferred the instant application under Section 378(4) Cr.P.C. for grant of leave to appeal against the judgment dated 16.03.2011 passed by the learned Additional Sessions Judge (Adhoc) Fast Track Court, Gurdaspur, whereby the respondent No. 1/accused was ordered to be acquitted. In the present case, the respondent No. 1 alongwith others was tried for the commission of the offence punishable under Sections 406/506 IPC. Vide judgment and order dated 30.05.2009 passed by the learned Judicial Magistrate 1st Class, Gurdaspur, respondent No. 1 was convicted under Section 406 IPC and was sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs. 1000/- alongwith default stipulation. However, his co-accused were ordered to be acquitted by the learned trial Court. The respondent No. 1 preferred the appeal before the Court of learned Sessions Judge, Gurdaspur. Vide the impugned judgment, the appellate Court ordered acquittal of respondent No. 1

also. Assailing the said judgment, the instant application has been filed before this Court.

As per the prosecution story, on 27.08.2002, ASI Balkar Singh alongwith other police officials was present at Kahnuan market and the appellant/complainant appeared there and got his statement recorded to the police team. As per him, his daughter Renu Bala was married to respondent No. 1 on 26.04.2001 as per Hindu rites and ceremonies. He had given dowry beyond his capacity at the time of the marriage of his daughter. However, soon after the marriage, his daughter was harassed by her in-laws, i.e. respondent No. 1/accused, his parents and sisters for bringing less dowry and a demand of Santro car was raised by them. His daughter shared her ordeal with him and after about three months of marriage they had killed his daughter by administering her some poisonous substance. The appellant alongwith Joginder Singh, Vijay Kumar and other respectable persons went to the house of respondent No. 1/accused and asked them to return the dowry articles but they had refused to return the same and had illegally retained the dowry articles. With these broad allegations, the FIR in the instant case was registered.

Learned counsel for the applicant vehemently argued that the appellate Court did not examine the evidence led by the prosecution properly and the impugned judgment is legally unsustainable. Learned counsel for the applicant further argued that the appellate Court had committed patent error while acquitting the respondent No. 1 on the ground of jurisdiction. The learned Court ignored Section 181(4) of Cr.P.C., which clearly spelled out that the

Court at Gurdaspur had the jurisdiction over the matter. The submissions made by the learned counsel for the appellant have been refuted by the learned counsel for respondent No. 1 and he prayed for upholding the findings recorded by the appellate Court. I find force in the arguments raised by the learned counsel for respondent No. 1. In fact, the appellate Court has rightly recorded that the Court at Kahnuan, District Gurdaspur had no jurisdiction to try the present case. In fact, the applicant/appellant/complainant had already lodged one FIR No. 168 of 2001 under Sections 304-B, 498-A and 34 IPC at Police Station Indora, District Kangra (H.P.). On the day, when the FIR under Sections 498-A and 304-B IPC was got registered by the appellant/complainant, the facts of return of dowry articles were well within his knowledge and he could have got registered the FIR in the same police station itself. Almost similar allegations were already leveled by the complainant in the said FIR and he could not have permitted to lodge FIR's at different places by taking shelter of technicalities of law. Even otherwise, the learned trial Court rightly held that the provisions of Section 300(3) Cr.P.C. were applicable to the facts of the instant case and the respondent No. 1 was rightly acquitted.

Learned counsel for the appellant further vehemently argued that the provisions of Section 6(3) of the Dowry Prohibition Act were in the nature of an exception to Section 15 of the Hindu Succession Act 1956. Renu Bala, since deceased/daughter of the appellant died within three months of her marriage due to administration of some poisonous substance to her and it could not

have been said that father of Renu Bala was entitled to the dowry articles. As per Section 6 of the Dowry Prohibition Act in any case, the husband of the wife could not have retained the dowry articles. The said submissions have been opposed by the learned counsel appearing on behalf of respondent No. 1. Learned counsel for respondent No. 1 contended that in the instant case, neither the entrustment of dowry articles could be proved beyond doubt nor the misappropriation of dowry articles could be proved by the complainant. The appellant filed a criminal complaint against four persons, but no specific entrustment was alleged to anyone of them. I have heard the rival contentions made by learned counsel for the parties. I find no substance in the arguments raised by the learned counsel for the appellant. In the instant case, even though the complainant has alleged that the dowry articles were misappropriated by respondent No. 1 and his other family members. The general and vague allegations of entrustment of dowry were leveled by the present appellant/complainant. It was not specifically pleaded as to which articles were handed over to a particular accused. Apart from that, the respondent No. 1/accused had already returned the dowry articles to the complainant side vide memo Ex.PC and there was no question of misappropriation of dowry articles by the accused. Still further, the complainant side could not prove the factum of spending of an amount of more than 10 lacs on the marriage and the learned trial court rightly extended the benefit of doubt to the accused.

Apart from that, I have gone through the evidence led by the parties and findings recorded by the learned appellate Court. The

learned appellate Court has recorded valid reasons for acquitting the accused and detailed reasons have been recorded by the learned Court. The learned trial appellate Court discussed every aspect of the matter and dealt with all submissions which were made by the respondent No. 1 before the appellate Court and the findings are liable to be upheld by this Court.

Still further, the parameters have been laid down by this Court and the Hon'ble Supreme Court in entertaining the appeal against the order of acquittal in catena of judgments. It has been held in the matter of **“Mahadeo Laxaman Sarane and another Vs. State of Maharashtra”, 2007 (3) RCR (Criminal) 2010,** by the Hon'ble Supreme Court that in an appeal against acquittal, the High Court ought not to interfere in the order of acquittal if on the basis of same evidence two views are reasonably possible – one in favour of the accused and other against him. In such a case, if the trial Court takes a view in favour of the accused, the High Court ought not to interfere with the order of acquittal. Even otherwise, I have gone through the judgment passed by the learned trial Court and I find that valid reasons have been recorded by the learned trial Court while recording the judgment of acquittal. Consequently, the appeal is meritless and is liable to be dismissed by this Court. The impugned judgment the judgment dated 16.03.2011 passed by the learned Additional Sessions Judge (Adhoc) Fast Track Court, Gurdaspur, is affirmed and the application for leave to appeal is dismissed.

All pending applications, if any, are disposed off, accordingly.

The case property, if any, may be dealt with as per the rules after expiry of period of limitation for filing the appeal.

Records of the Court below be sent back.

11.04.2023
amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No