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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 1st December, 2022

Pronounced on: 6th January, 2023

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CRL.REV.P. 471/2019 & CRL M.A. 8383/2019

RITU SETHI

..... Petitioner

Through: Ms. Manika Tripathy, Advocate.

Versus

STATE & ANR

..... Respondents

Through: Mr. Utkarsh, APP for State.

Mr. Varun Chandiok, Advocate
for Respondent Nos. 2 & 3.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA J.

1. The present Criminal Revision Petition under Section 397 & 401 of the Criminal Procedure Code, 1973, is directed against the judgment and order dated 21.02.2018, passed by Sh. Girish Kathpalia, learned District and

Sessions Judge, South-East District, Saket Courts, New Delhi in Criminal Appeal No. 29/2016, whereby the learned Appellate Court upheld the judgment/order of acquittal of accused passed by the learned trial Court.

2. Brief factual background necessary for the disposal of the present petition is as under:

- i. Ms. Ritu Sethi (the petitioner) and Mr. Vivek Sethi (respondent no. 2) got married on 10.12.2001, in accordance with Hindu Rites and Ceremonies.
- ii. The petitioner filed a complaint dated 05.08.2002 at CWC Cell, Nanakpura, culminating into registration of FIR bearing No. 36/2003, under Section 498A/406/34 of the IPC at P.S. Greater Kailash-I on 27.02.2003.
- iii. Upon conclusion of the investigation, a chargesheet was filed before the Court of learned Metropolitan Magistrate, who took cognizance of the same on 18.10.2003. The learned Metropolitan Magistrate *vide* order dated 10.01.2013, framed charges against the Mr. Vivek Sethi/respondent no. 2 under Section 498A of the IPC, while discharging the Mother-in-law & Sister-in-law of the petitioner, under Section 498A & 406 of the IPC. *Vide* the aforesaid order, the learned Metropolitan Magistrate also discharged Mr. Vivek Sethi/ respondent no. 2 for offence under Section 406 of the IPC.
- iv. The petitioner preferred a revision petition bearing no. 09/2013 against the aforesaid order on charge dated 10.01.2013, whereby, the petitioner sought setting aside of the order discharging the mother-in-law and sister-in-law of the petitioner and the discharge of her husband, Mr. Vivek Sethi/respondent no. 2 under Section 406 of the IPC. The said

revision petition was dismissed by the learned Additional Sessions Judge *vide* order dated 10.05.2013.

- v. The aforesaid order dated 10.05.2013 was challenged by the petitioner before this Court *vide* **CRL.M.C.4449/2014**.
- vi. During the pendency of the aforesaid CRL.M.C.4449/2014, the trial *qua* the husband for offence punishable under section 498A of the IPC continued and *vide* order dated 17.09.2016, Mr. Vivek Sethi/respondent no. 2, was acquitted for offence punishable under Section 498A IPC by Ms. Charu Gupta, learned Metropolitan Magistrate, Mahila Court, SED/Saket Courts, New Delhi.
- vii. The aforesaid judgment of acquittal dated 17.09.2016, was challenged by the petitioner in CRL.A. 29/2016, before the learned District and Sessions Judge, South-East, Saket Courts, New Delhi. The said criminal appeal was dismissed *vide* order dated 21.02.2018 by Sh. Girish Kathpalia, District & Sessions Judge, South-East, Saket Courts, New Delhi.
- viii. Aggrieved with the aforesaid judgment dated 20.01.2018, the petitioner preferred a criminal revision petition being **CRL.REV.P.471/2019** (being disposed of by the present judgment).
- ix. During the pendency of the proceedings, the mother-in-law of the petitioner, i.e., Smt. Suniti Sethi passed away.
- x. It is pertinent to mention that the connected matters, i.e., petition bearing no. CRL.M.C.4449/2014 and the present revision petition bearing no. CRL.REV.P.471/2019, arise out of two separate impugned judgments, dated 10.05.2013 and 17.09.2016 respectively, passed at two different stages of trial, therefore, the same are being disposed of

by this court by two separate judgments of the same date.

3. The learned counsel for the petitioner has submitted that the courts below have erred in acquitting respondent no. 2, despite there being specific instances of cruelty and dowry harassment. It is further submitted that the learned trial Court has ignored the evidence on record, pointing out the guilt towards the respondent no. 2, and the said finding have been incorrectly upheld by the learned Appellate Court.

4. The learned counsel for the petitioner had taken this Court through the records, including the testimony of the complainant, and has urged that despite there being clear evidence on record of physical and mental cruelty with respect to demand of dowry, the respondent no. 2 has been acquitted. It is further submitted that the trial Court ignored the evidence in form of a letter written by her to her father on flimsy grounds and similarly, her evidence with regard to the injury caused by respondent no. 2, which was sought to be proved through the testimony of Dr. M.S. Sacchar (PW-2), was also ignored.

5. Learned counsel for respondent no. 2 has submitted that the concurrent findings of both the courts below, i.e., the learned trial Court & the learned Appellate Court, have correctly appreciated the entire material on record. It was further submitted that there were specific instances demonstrating that the petitioner/complainant was contradicting herself on material points, which has been correctly observed and appreciated by the learned Trial Court as well as the learned Appellate Court. He further submits that the present revision petition may be dismissed as no grounds have been made out for this Court to interfere with the two concurrent findings of the Courts below.

6. Heard the learned counsel appearing on behalf of both the parties and perused the record.

7. The present revision petition challenges the judgment of an Appellate Court dismissing an order against acquittal passed by the learned Metropolitan Magistrate. It is well settled that in an appeal against acquittal, the scope of the learned Appellate Court is to the extent that the judgment of acquittal should not be ordinarily interfered with unless the findings in such judgment are shown to be arrived at by incorrect or perverse appreciation of material on record and the law. This settled position of law with respect to the scope of the learned Appellate Court *qua* an appeal against the acquittal has been considered in a catena of judgments by the Hon'ble Supreme Court. In *Basheera Begam v. Mohd. Ibrahim*, (2020) 11 SCC 174 the Hon'ble Supreme Court has held:

“190. At the cost of repetition, it is reiterated that the burden of proving an accused guilty beyond all reasonable doubt lies on the prosecution. If upon analysis of evidence two views are possible, one which points to the guilt of the accused and the other which is inconsistent with the guilt of the accused, the latter must be preferred. Reversal of a judgment and order of conviction and acquittal of the accused should not ordinarily be interfered with unless such reversal/acquittal is vitiated by perversity. In other words, the court might reverse an order of acquittal if the court finds that no person properly instructed in law could have upon analysis of the evidence on record found the accused to be “not guilty”. When there is circumstantial evidence pointing to the guilt of the accused, it is necessary to prove a motive for the crime. However, motive need not be proved where there is direct evidence. In this case, there is no direct evidence of the crime.

191. In *Sadhu Saran Singh v. State of U.P* , this Court observed that an appeal against acquittal has always been on an altogether different pedestal from an appeal against conviction. In an appeal against acquittal, where the presumption of innocence in favour of the accused is reinforced, the appellate court would interfere with the order of acquittal only when there is perversity. In this case, it cannot be said that the reasons given by the High Court to reverse

the conviction of the accused are flimsy, untenable or bordering on perverse appreciation of evidence.”

8. Recently, the Hon’ble Supreme Court in Jafarudheen v. State of Kerala, (2022) 8 SCC 440, made a detailed analysis of the precedents, with respect to the scope of an appeal against acquittal and recorded as under;

“Scope of appeal filed against the acquittal

25. While dealing with an appeal against acquittal by invoking Section 378 CrPC, the appellate court has to consider whether the trial court's view can be termed as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.

Precedents

26. Mohan v. State of Karnataka as hereunder : (SCC paras 20-23)

“20. Section 378 CrPC enables the State to prefer an appeal against an order of acquittal. Section 384 CrPC speaks of the powers that can be exercised by the appellate court. When the trial court renders its decision by acquitting the accused, presumption of innocence gathers strength before the appellate court. As a consequence, the onus on the prosecution becomes more burdensome as there is a double presumption of innocence. Certainly, the Court of first instance has its own advantages in delivering its verdict, which is to see the witnesses in person while they depose. The appellate court is expected to involve itself in a deeper, studied scrutiny of not only the evidence before it, but is duty-bound to satisfy itself whether the decision of the trial court is both possible and plausible view. When two views are possible, the one taken by the trial court in a case of acquittal is to be followed on the touchstone of liberty along with the advantage of having seen the witnesses. Article 21 of the Constitution of India also aids the accused after acquittal in a certain way, though not absolute. Suffice it is to state that the appellate court

shall remind itself of the role required to play, while dealing with a case of an acquittal.

21. Every case has its own journey towards the truth and it is the Court's role to undertake. Truth has to be found on the basis of evidence available before it. There is no room for subjectivity nor the nature of offence affects its performance. We have a hierarchy of courts in dealing with cases. An appellate court shall not expect the trial court to act in a particular way depending upon the sensitivity of the case. Rather it should be appreciated if a trial court decides a case on its own merit despite its sensitivity.

22. At times, courts do have their constraints. We find, different decisions being made by different courts, namely, the trial court on the one hand and the appellate courts on the other. If such decisions are made due to institutional constraints, they do not augur well. The district judiciary is expected to be the foundational court, and therefore, should have the freedom of mind to decide a case on its own merit or else it might become a stereotyped one rendering conviction on a moral platform. Indictment and condemnation over a decision rendered, on considering all the materials placed before it, should be avoided. The appellate court is expected to maintain a degree of caution before making any remark.

23. This Court, time and again has laid down the law on the scope of inquiry by an appellate court while dealing with an appeal against acquittal under Section 378 CrPC. We do not wish to multiply the aforesaid principle except placing reliance on a recent decision of this Court in Anwar Ali v. State of H.P : (SCC pp. 182-85, para 14)

‘14.2. When can the findings of fact recorded by a court be held to be perverse has been dealt with and considered in para 20 of the aforesaid decision, which reads as under : (Babu case, SCC p. 199)

“20. The findings of fact recorded by a court can be held to be perverse if the findings have been arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant/inadmissible material. The finding may also be said to be perverse if it is “against the weight of evidence”, or if the finding so outrageously defies logic as to suffer from the vice of irrationality. (Vide Rajinder Kumar Kindra v. Delhi Admn, Excise & Taxation Officer-cum-Assessing Authority v. Gopi Nath & Sons , Triveni

Rubber & Plastics v. CCE, Gaya Din v. Hanuman Prasad , Arulvelu and Gamini Bala Koteswara Rao v. State of A.P.)”

It is further observed, after following the decision of this Court in Kuldeep Singh v. Commr. of Police, that if a decision is arrived at on the basis of no evidence or thoroughly unreliable evidence and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on record which is acceptable and which could be relied upon, the conclusions would not be treated as perverse and the findings would not be interfered with.

14.3. In the recent decision of Vijay Mohan Singh , this Court again had an occasion to consider the scope of Section 378 CrPC and the interference by the High Court in an appeal against acquittal. This Court considered a catena of decisions of this Court right from 1952 onwards. In para 31, it is observed and held as under : (Vijay Mohan Singh case, SCC pp. 447-49)

“31. An identical question came to be considered before this Court in Umedbhai Jadavbhai. In the case before this Court, the High Court interfered with the order of acquittal passed by the learned trial court on reappraisal of the entire evidence on record. However, the High Court, while reversing the acquittal, did not consider the reasons given by the learned trial court while acquitting the accused. Confirming the judgment of the High Court, this Court observed and held in para 10 as under : (SCC p. 233)

‘10. Once the appeal was rightly entertained against the order of acquittal, the High Court was entitled to reappraise the entire evidence independently and come to its own conclusion. Ordinarily, the High Court would give due importance to the opinion of the Sessions Judge if the same were arrived at after proper appreciation of the evidence. This rule will not be applicable in the present case where the Sessions Judge has made an absolutely wrong assumption of a very material and clinching aspect in the peculiar circumstances of the case.’

31.1. In Sambasivan , the High Court reversed the order of acquittal passed by the learned trial court and held the accused guilty on reappraisal of the entire evidence on record, however, the High Court did not record its conclusion on the question whether the approach of the trial court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable.

Confirming the order passed by the High Court convicting the accused on reversal of the acquittal passed by the learned trial court, after being satisfied that the order of acquittal passed by the learned trial court was perverse and suffered from infirmities, this Court declined to interfere with the order of conviction passed by the High Court. While confirming the order of conviction passed by the High Court, this Court observed in para 8 as under : (SCC p. 416)

‘8. We have perused the judgment under appeal to ascertain whether the High Court has conformed to the aforementioned principles. We find that the High Court has not strictly proceeded in the manner laid down by this Court in Doshi case viz. first recording its conclusion on the question whether the approach of the trial court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable, which alone will justify interference in an order of acquittal though the High Court has rendered a well-considered judgment duly meeting all the contentions raised before it. But then will this non-compliance per se justify setting aside the judgment under appeal? We think, not. In our view, in such a case, the approach of the court which is considering the validity of the judgment of an appellate court which has reversed the order of acquittal passed by the trial court, should be to satisfy itself if the approach of the trial court in dealing with the evidence was patently illegal or conclusions arrived at by it are demonstrably unsustainable and whether the judgment of the appellate court is free from those infirmities; if so to hold that the trial court judgment warranted interference. In such a case, there is obviously no reason why the appellate court's judgment should be disturbed. But if on the other hand the court comes to the conclusion that the judgment of the trial court does not suffer from any infirmity, it cannot but be held that the interference by the appellate court in the order of acquittal was not justified; then in such a case the judgment of the appellate court has to be set aside as of the two reasonable views, the one in support of the acquittal alone has to stand. Having regard to the above discussion, we shall proceed to examine the judgment of the trial court in this case.’

31.2. In K. Ramakrishnan Unnithan, after observing that though there is some substance in the grievance of the learned counsel appearing on behalf of the accused that the High Court has not adverted to all the reasons given by the trial Judge for according an order of acquittal, this Court refused to set aside the order of

conviction passed by the High Court after having found that the approach of the Sessions Judge in recording the order of acquittal was not proper and the conclusion arrived at by the learned Sessions Judge on several aspects was unsustainable. This Court further observed that as the Sessions Judge was not justified in discarding the relevant/material evidence while acquitting the accused, the High Court, therefore, was fully entitled to reappraise the evidence and record its own conclusion. This Court scrutinised the evidence of the eyewitnesses and opined that reasons adduced by the trial court for discarding the testimony of the eyewitnesses were not at all sound. This Court also observed that as the evaluation of the evidence made by the trial court was manifestly erroneous and therefore it was the duty of the High Court to interfere with an order of acquittal passed by the learned Sessions Judge.

31.3. In *Atley*, in para 5, this Court observed and held as under : (AIR pp. 809-10)

‘5. It has been argued by the learned counsel for the appellant that the judgment of the trial court being one of acquittal, the High Court should not have set it aside on mere appreciation of the evidence led on behalf of the prosecution unless it came to the conclusion that the judgment of the trial Judge was perverse. In our opinion, it is not correct to say that unless the appellate court in an appeal under Section 417 CrPC came to the conclusion that the judgment of acquittal under appeal was perverse it could not set aside that order.

It has been laid down by this Court that it is open to the High Court on an appeal against an order of acquittal to review the entire evidence and to come to its own conclusion, of course, keeping in view the well-established rule that the presumption of innocence of the accused is not weakened but strengthened by the judgment of acquittal passed by the trial court which had the advantage of observing the demeanour of witnesses whose evidence has been recorded in its presence.

It is also well settled that the court of appeal has as wide powers of appreciation of evidence in an appeal against an order of acquittal as in the case of an appeal against an order of conviction, subject to the riders that the presumption of innocence with which the accused person starts in the trial court continues even up to the appellate stage and that the appellate court should attach due weight to the opinion of the trial court which recorded the order of acquittal.

If the appellate court reviews the evidence, keeping those principles in mind, and comes to a contrary conclusion, the judgment cannot be said to have been vitiated. (See in this connection the very cases cited at the Bar, namely, Surajpal Singh v. State; Wilayat Khan v. State of U.P.) In our opinion, there is no substance in the contention raised on behalf of the appellant that the High Court was not justified in reviewing the entire evidence and coming to its own conclusions.’

31.4. In K. Gopal Reddy, this Court has observed that where the trial court allows itself to be beset with fanciful doubts, rejects creditworthy evidence for slender reasons and takes a view of the evidence which is but barely possible, it is the obvious duty of the High Court to interfere in the interest of justice, lest the administration of justice be brought to ridicule.””

(emphasis in original)

27. N. Vijayakumar v. State of T.N.as hereunder : (SCC pp. 695-99, paras 20-21 & 23-24)

“20. Mainly it is contended by Shri Nagamuthu, learned Senior Counsel appearing for the appellant that the view taken by the trial court is a “possible view”, having regard to the evidence on record. It is submitted that the trial court has recorded cogent and valid reasons in support of its findings for acquittal. Under Section 378 CrPC, no differentiation is made between an appeal against acquittal and the appeal against conviction. By considering the long line of earlier cases this Court in the judgment in Chandrappa v. State of Karnataka has laid down the general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal. Para 42 of the judgment which is relevant reads as under : (SCC p. 432)

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

(1) An appellate court has full power to review, reappraise 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 is 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.’

21. Further in the judgment in relied on by the learned Senior Counsel for the appellant, this Court has considered the powers of the High Court in an appeal against acquittal recorded by the trial court. In the said judgment, it is categorically held by this Court that only in cases where conclusion recorded by the trial court is not a possible view, then only the High Court can interfere and reverse the acquittal to that of conviction. In the said judgment, distinction from that of “possible view” to “erroneous view” or “wrong view” is explained. In clear terms, this Court has held that if the view taken by the trial court is a “possible view”, the High Court ought not to reverse the acquittal to that of the conviction.

23. Further, in Hakeem Khan v. State of M.P. this Court has considered the powers of the appellate court for interference in cases where acquittal is recorded by the trial court. In the said judgment it is held that if the “possible view” of the trial court is not agreeable

for the High Court, even then such “possible view” recorded by the trial court cannot be interdicted. It is further held that so long as the view of the trial court can be reasonably formed, regardless of whether the High Court agrees with the same or not, verdict of the trial court cannot be interdicted and the High Court cannot supplant over the view of the trial court. Para 9 of the judgment reads as under : (SCC pp. 722-23)

‘9 . Having heard the learned counsel for the parties, we are of the view that the trial court's judgment is more than just a possible view for arriving at the conclusion of acquittal, and that it would not be safe to convict seventeen persons accused of the crime of murder i.e. under Section 302 read with Section 149 of the Penal Code. The most important reason of the trial court, as has been stated above, was that, given the time of 6.30 p.m. to 7.00 p.m. of a winter evening, it would be dark, and, therefore, identification of seventeen persons would be extremely difficult. This reason, coupled with the fact that the only independent witness turned hostile, and two other eyewitnesses who were independent were not examined, would certainly create a large hole in the prosecution story. Apart from this, the very fact that there were injuries on three of the accused party, two of them being deep injuries in the skull, would lead to the conclusion that nothing was premeditated and there was, in all probability, a scuffle that led to injuries on both sides. While the learned counsel for the respondent may be right in stating that the trial court went overboard in stating that the complainant party was the aggressor, but the trial court's ultimate conclusion leading to an acquittal is certainly a possible view on the facts of this case. This is coupled with the fact that the presence of the kingpin Sarpanch is itself doubtful in view of the fact that he attended the Court at some distance and arrived by bus after the incident took place.’

24. By applying the abovesaid principles and the evidence on record in the case on hand, we are of the considered view that having regard to material contradictions which we have already noticed above and also as referred to in the trial court judgment, it can be said that acquittal is a “possible view”. By applying the ratio as laid down by this Court in the judgments which are stated supra, even assuming another view is possible, same is no ground to interfere with the judgment of acquittal and to convict the appellant for the offence alleged. From the evidence, it is clear that when the Inspecting Officer and other witnesses who are examined on behalf of the prosecution, went to the office of the appellant-accused, the

appellant was not there in the office and office was open and people were moving out and in from the office of the appellant. It is also clear from the evidence of PWs 3, 5 and 11 that the currency and cellphone were taken out from the drawer of the table by the appellant at their instance. There is also no reason, when the tainted notes and the cellphone were given to the appellant at 5.45 p.m. no recordings were made and the appellant was not tested by PW 11 till 7.00 p.m.”

9. The petitioner had challenged the order of acquittal passed by the learned Metropolitan Magistrate before the learned Sessions Court, and the latter, after examining the records of the case found no anomaly in the impugned judgment and agreed with the view taken by the learned trial Court. In these circumstances, the presumption of innocence qua the respondent has been reinforced twice over.

10. The grounds taken in the present petition as well as during the course of the arguments are the same which were taken by the petitioner before the learned Appellate Court. The grounds raised before the learned Appellate Court were dealt by a detailed threadbare analysis of the prosecution evidence on record and finding of the learned trial Court. It was for the petitioner to demonstrate the perverseness in the impugned judgment passed by the learned Appellate Court in order to cause interference by this Court with two concurrent findings of acquittal qua the present respondent. The Hon’ble Supreme Court in Manju Ram Kalita V. State of Assam, (2009) 13 SCC 330, while dealing with the scope of reappreciation of evidence by higher court in criminal revision observed in para 9 as under:

“9. ...It is a settled legal proposition that if the courts below have recorded the finding of fact, the question of reappreciation of evidence by the third court does not arise unless it is found to be totally

perverse...”

Following the aforesaid judgment, the Hon’ble Supreme Court recently in *Malkeet Singh Gill Vs. State of Chattisgarh*, (2022) 8 SCC 204, has held as under:

“10. Before advertng to the merits of the contention, at the outset, it is apt to mention that there are concurrent findings of conviction arrived at by two courts after detailed appreciation of the material and evidence brought on record. The High Court in criminal revision against conviction is not supposed to exercise the jurisdiction alike to the appellate court and the scope of interference in revision is extremely narrow. Section 397 of the Criminal Procedure Code (in short “CrPC”) vests jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior court. The object of the provision is to set right a patent defect or an error of jurisdiction or law. There has to be well-founded error which is to be determined on the merits of individual case. It is also well settled that while considering the same, the Revisional Court does not dwell at length upon the facts and evidence of the case to reverse those findings.”

10. Having perused the record, this Court finds that the learned trial Court as well as the learned Appellate Court has carefully scrutinized the evidence on record and has dealt with each and every issue raised by the petitioner/complainant. The views taken by both the courts below are possible. From the evidence, it is clear that not only the allegation of demand of dowry *qua* the respondent were vague but the discrepancy in the allegations of harassment and cruelty were substantial to give benefit of doubt to the respondent and acquitting him.

11. In view of the above, there is no ground made out to interfere with the judgment passed by learned Metropolitan Magistrate and the judgment of the

learned Appellate Court dated 21.02.2018, upholding the acquittal of the respondent by the learned trial Court.

12. The present petition is dismissed and disposed of accordingly alongwith the pending application(s), if any.

**AMIT SHARMA
JUDGE**

JANUARY 6, 2023/bsr

