

CRR-905-2022 (O&M)

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-905-2022 (O&M)
Reserved on: 12.08.2024
Pronounced on: 13.08.2024

TINOPAL

...Petitioner

Versus

SATISH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

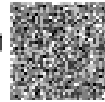
Present: Mr. Ajay Gupta, Advocate for
Mr. Gaurav Verma, Advocate
for the petitioner (through video conferencing).

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR, J.

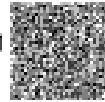
1. The present revision petition has been filed against the impugned judgment dated 10.01.2017 passed by learned Additional Chief Judicial Magistrate, Panipat and impugned judgment dated 05.02.2021 passed by learned Additional District and Sessions Judge, Panipat, whereby respondents No. 1 to 4 have been acquitted by both the both the Courts below.

2. Briefly, the case of the prosecution is that on 8.10.2009, ASI Surender Singh received a complaint from the petitioner-complainant-Tinopal wife of Virender Singh to the effect that her husband had solemnized second marriage with a girl namely Reena-respondent No. 4 and they have a daughter. Reena is working as a Staff Nurse. It was further alleged that on coming to know that her husband is going to solemnize marriage with Reena, she informed the Sarpanch of Village Gheer to stop this marriage. The Sarpanch asked the father of Reena to stop the marriage. The family of Reena



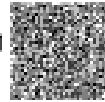
were informed that Virender is already married and has one son. However, the girl did not understand and married her husband forcibly. On 8.10.2009, she has gone to the Court to attend the proceedings in her divorce case which was filed by Virender-respondent No. 2. After the completion of the proceedings, she reached at her house where the lunch programme of one Bhim Sain Mehta was going on. Many other villagers were present for this purpose there. She requested Bhim Sain Mehta that Virender is keeping another woman and a daughter has also been born to them on 27.09.2009 at 4.08 a.m. at Haryana Nursing Home, Sector-13, Karnal. She has inquired from the doctor as to who had informed her that the girl was born to Staff Nurse Reena. When she was telling about these facts to Mr. Mehta then Virender gave a slap on her face. Surender-respondent No. 3, also threatened to kill the petitioner. Her husband, Jeth and Devar used obligatory language and threatened her with dire consequences. It was further alleged that her husband wants to give her divorce and her in-laws are also trying to kill her. On the basis of aforesaid allegations formal FIR No. 348 dated 08.10.2009 under Sections 494, 498-A, 294, 323, 506 and 109 of Indian Penal Code was registered at Police Station Kunjpura (Karnal).

3. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that there is no evidence produced by the prosecution which could prove the alleged second marriage of respondent No. 2-Virender with respondent No. 4-Reena in accordance with Hindu rites and ceremonies and it was a valid marriage but the fact is that the first wife of Virender was still alive. The complainant had herself stated in her cross-examination that it is her husband who had informed about his second marriage on 31.10.2009. She had also claimed that she was



telephonically informed by father of respondent-Reena regarding second marriage. Thus, it is clear from her statement that she had neither witnessed the alleged second marriage of respondent-Virender and Reena nor she had direct knowledge of this fact, rather she was informed either by Virender or father of Reena. None of the witnesses examined by the prosecution had deposed about the ceremonies and saptpadi being performed during the marriage of Virender and Reena and when the ceremonies required for a valid Hindu marriage, have not been proved on the case file, it cannot be said that Virender and Reena, even if, they had got married with each other, had performed a valid marriage. Thus, the offence under Section 494 of Indian Penal Code was not made out. As far as the offence of criminal intimidation is concerned, mere empty threat does not constitute an offence under Section 506 of Indian Penal Code and regarding offence under Section 323 of IPC, it was rightly observed by learned Courts below that as the parties were litigating against each other and several other complaints were filed by the complainant against respondent-Virender, there is every possibility that the said allegation of slapping the complainant by respondent-Virender was falsely levelled by the complainant as the said incident had allegedly taken place at a public place where number of persons were present but the police had not joined any person during the investigation. Thus, learned Courts below have rightly come to the conclusion that the solitary self serving statement of the complainant was not sufficient to hold the respondents guilty for commission of offence under Section 323 of Indian Penal Code. As such, the case of the prosecution does not inspire any confidence of this Court.

5. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that



where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. (*See H.D. Sundara and others vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram vs. State of H.P., 1973 (2) SCC 808 and Chandrappa and others vs. State of Karnataka, (2007) 4 SCC 415*). A Division bench of this Court in the judgment passed in *State of Haryana vs. Ankit and others passed CRM-A No.3 of 2022 decided on 06.07.2023* has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

6. In view of the discussion above, this Court finds that learned counsel for the petitioner has failed to point out any perversity or illegality in findings recorded by the learned Court below, which warrants any interference. Accordingly, the present revision petition is dismissed.

7. Pending miscellaneous application(s), if any, also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

Reserved on: 12.08.2024

Pronounced on: 13.08.2024

Ajay Goswami

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No