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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRR-4134-2015 (O&M)  
Date of decision: 29.08.2024

Anu Dhiman

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Harleen Kaur, Advocate (legal aid counsel)  
for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

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HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been preferred against the impugned judgment dated 05.01.2015 passed by learned learned Judicial Magistrate 1<sup>st</sup> Class, Rajpura, whereby respondents No.4 & 5 were acquitted in complaint case bearing No.COMI/695/2013 filed under Sections 406, 498-A, 427 of the Indian Penal Code, 1860 (for short 'IPC') as well as judgment dated 06.05.2015 passed by learned Additional Sessions Judge, Patiala, in Criminal Appeal No.92 of 17.04.2015 preferred against the judgment dated 05.01.2015,

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vide which the appeal filed by the present petitioner-complainant was dismissed, whereas the appeal (CRA No.73 of 17.04.205) filed by respondents No.2 & 3 against their conviction was allowed and they were also acquitted.

2. Briefly, the facts are that the petitioner filed a private complaint before learned trial Court, wherein it was alleged that she was married to Amandeep Singh on 07.12.2008 as per Hindu rites and ceremonies and at the time of their marriage, sufficient dowry articles were given by her parents. Unfortunately, husband of the petitioner passed away in a road accident on 03.09.2009. Thereafter, the private respondents i.e. respondent No.2 is father-in-law, respondent No.3 is mother-in-law and respondents No.4 & 5 are brothers-in-law of the present petitioner, started harassing her for more dowry and ousted her from her matrimonial house, when she was in advanced stage of pregnancy, while retaining her *Istridhan*. It was also alleged that accused No.2, 3 and 5 started pressurizing her for solemnizing marriage with respondent No.4 and also demanded Rs.2.00 lacs from her parents. Upon her refusal to do so, the accused damaged her *Istridhan* and threatened her of dire consequences. The petitioner reported the entire matter to the concerned police station on 03.11.2009, but no legal action was taken against the accused. Resultantly, a private complaint was preferred by the petitioner.

3. After conclusion of preliminary evidence of the complainant, the accused-private respondents were summoned by learned trial Court to face trial

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under Sections 406, 498-A & 427 of IPC. The complainant was heard on pre-charge evidence and subsequently, upon finding a *prima facie* case, charges were framed against the accused for commission of offences punishable under Sections 406, 427 & 498-A of IPC. The trial ensued and ultimately, respondents No.4 & 5 were acquitted of the charges framed against them, but respondents No.2 & 3, i.e., father-in-law and mother-in-law of the petitioner-complainant, were convicted and sentenced vide impugned judgment dated 05.01.2015 and they were ordered to undergo rigorous imprisonment for a period of 01 year under Section 498-A of IPC and rigorous imprisonment for a period of 01 year under Section 406 of IPC each.

4. Thereafter, an appeal against judgment dated 05.01.2015 was filed by respondents No.2 & 3 challenging their conviction and sentence, whereas an appeal was filed by the petitioner-complainant impugning the aforesaid judgment on the grounds that respondents No.4 & 5 were wrongly acquitted and that the quantum of sentence awarded to respondents No.2 & 3 was on a lower side. The learned lower Appellate Court, vide impugned judgment dated 06.05.2015, allowed the appeal filed by respondents No.2 & 3 and set aside their conviction, whereas the appeal filed by the petitioner-complainant was dismissed and the acquittal of respondents No.4 & 5 by learned trial Court was upheld. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition.



5. Learned counsel for the petitioner vociferously contends that the prosecution case stood duly proved by documentary evidence on record as well as oral testimony of the witnesses and learned Courts below erred in acquitting the private respondents despite presence of unimpeachable evidence. It is further argued by her that the private respondents admitted before learned trial Court that the dowry articles as well as *Istridhan* were in their possession and some of the items were destroyed by them.

6. Learned State counsel submits that learned Courts below passed the impugned judgments, after correct appreciation of the evidence brought on record.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance. It transpires that there is no evidence on record to show that the complainant ever approached the concerned police station against the accused-private respondents regarding alleged maltreatment. Further, the allegations levelled by the complainant against the accused are vague and omnibus. She failed to attribute any specific role to the accused. Even in her cross-examination before learned trial Court, the complainant has admitted that she cannot provide any details qua specific entrustment of dowry articles to any of the accused and she also failed to disclose the specific date of purchase of the said articles. No bills of purchase regarding the dowry articles mentioned in the list (Ex. P2) were placed on record by the complainant to support her claim. It has



also come to the fore that the accused were initially exonerated in the inquiry conducted by the jurisdictional police authorities. A careful perusal of the case file shows that there is no evidence in any form available on record to establish the guilt of the accused under Sections 406 & 498-A of IPC.

8. Furthermore, power of the Appellate/Revisional 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. Furthermore, learned trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. (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 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 learned trial Court.

9. A two Judge Bench of Hon'ble Supreme Court in case of *Chandrappa's case (supra)* has laid down the parameters with regard to power of



the appellate Court, while dealing with an appeal against an order of acquittal.

Speaking through Justice C.K. Thakker, the following was held:

*"42. From the above decisions, in our considered view, the following general principles regarding powers of appellate Court while dealing with an appeal against an order of acquittal emerge;*

- (1) An appellate Court has full power to review, re-appreciate 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 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."*

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10. In view of the facts and circumstances of the case, this Court finds that learned counsel for the petitioner has failed to point out any perversity or illegality in findings recorded by learned Courts below, which warrants interference by this Court. As such, there is no merit in the present revision petition and the same stands dismissed.

11. All the pending miscellaneous application(s), if any, shall stand disposed of.

12. Registry is directed to pay the amount of honorarium to the Legal Aid Counsel as per rules.

[ HARPREET SINGH BRAR ]  
JUDGE

29.08.2024  
*vishnu*

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