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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 03.12.2024

Sushma

...Petitioner

V/s

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vishal Yadav, Advocate for the petitioner.

SUMEET GOEL, J. (Oral)

1. The present criminal revision petition has been filed under Section 397 read with Section 401 of the Cr.P.C., 1973, challenging the judgment dated 16.08.2017 passed by the learned Additional Sessions Judge, Rewari wherein the accused-respondent No.2 (herein) was acquitted of the charges under Section 498-A of the IPC and the judgment of conviction dated 29.05.2015 and order of sentence dated 01.06.2015 passed by Judicial Magistrate Ist Class, Kosli was set-aside

2. For clarity and simplicity, the revisionist-petitioner, who has filed the impugned FIR, will be referred to as the 'complainant' while respondent No.2, the accused in the impugned FIR, will be referred to as the 'accused' throughout this judgment.

3. In the present revision petition, the pertinent facts necessary for adjudication are that the complainant had approached the SDJM, Kosli who directed for registration of a case under Section 156(3) of Cr.P.C., 1973 and consequently the instant FIR bearing No.06 dated 28.01.2011 was lodged

against the accused-respondent No. 2, a resident of village Mukundpura,

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District Jhunjhunu (Rajasthan), under Sections 498-A, 323, 406, 511 of the Indian Penal Code (for brevity the 'IPC') at Police Station Jatusana. The matter proceeded to trial before the Court of Judicial Magistrate, First Class, Kosli, which concluded its proceedings and, vide judgment dated 29.05.2015, held the accused (respondent No.2 herein) guilty of an offence punishable under Section 498-A of the IPC. Dissatisfied with the judgment of conviction and order of sentence, the accused (respondent No.2 herein) preferred an appeal against the said judgment passed by the Judicial Magistrate Ist Class, Kosli. However, the learned Additional Sessions Judge, Rewari, vide judgment dated 16.08.2017, set-aside the trial court's decision and acquitted the accused of the charges. The appellate Court held that the trial court had not correctly appreciated the evidence in accordance with the relevant legal principles, and thus had not reached the appropriate conclusion based on the material facts presented during the trial, and hence require interference.

4. The petitioner (complainant herein), aggrieved by the findings of the appellate Court, has now invoked the revisional jurisdiction of this Court, seeking re-examination of the findings as the same are based on alleged mis-appreciation of evidence and procedural irregularities. However, it is well-settled law that the scope of revision is limited and does not entail a re-appreciation of evidence unless there is a manifest illegality or a serious miscarriage of justice.

5. In brief, the case of the prosecution, as detailed in the present petition, is that on 28.01.2011, the Sub Divisional Judicial Magistrate Court, Kosli, directed the registration of an FIR under Section 156(3) Cr.P.C. based

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on a complaint made by the complainant. It was alleged therein by the complainant that she was married to accused Kamlesh (respondent No.2 herein) on 12.05.2009 in village Fatehpuri, as per Hindu rites. Immediately, after a short span of her marriage, the complainant alleged that she was subjected to dowry harassment and maltreatment by the accused. It was further alleged that at the time of *lagan* ceremony on 10.05.2009, accused Shiv Kumar (accused no. 2) expressed dissatisfaction with the gold ornaments gifted by the family of the complainant and also demanded ₹1,50,000/-. After the solemnization of the marriage, the accused, Kamlesh, allegedly started harassing the complainant, claiming that he had better marital options and began treating the complainant as a maid. It was further alleged that on 09.06.2009, when the complainant went to her matrimonial home, the accused Kamlesh and Shiv Kumar raised a demand of cash of ₹2,00,000 while accused Sanjay intervened and suggested raising the demand to ₹5,00,000/-. After much persuasion, the accused did not mend their ways and remained adamant on their demand of cash of Rs.5,00,000/-. It was further alleged that, thereafter, the complainant was harassed physically and mentally and ultimately she returned to her parental home on 12.06.2009. In September 2009, accused Shiv Kumar allegedly attempted to outrage the modesty of the complainant, while accused Sanjay and Manoj harassed the complainant both mentally and physically. It was further alleged that the accused remained adamant on their dowry demand and continued to harass the complainant and did not mend their ways. Despite interventions by her uncle and Panchayat assurance in April 2010, the accused continued his demands and harassed/maltreated the complainant.

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This necessitated the complainant to file complainants in the concerned police station. However, on account of inaction on the complaints filed by the complainant in the month of March 2010 and January 2011, the complainant was forced to approach the Illaqa Magistrate. Thereafter, on the basis of the direction issued by the concerned Court, the matter was investigated by the Police which led to the registration of the instant FIR. Investigation ensued and during the course of investigation, the accused Kamlesh was arrested. However, the other named accused were found innocent. Final report under Section 173 of Cr.P.C., 1973 was filed before the competent Court of jurisdiction.

6. Learned counsel for the petitioner-complainant has iterated that the appellate Court below has erred in acquitting the respondent No.2 and the impugned order is contrary to law, facts and evidence on record. According to the learned counsel, the appellate Court has erred in setting-aside a well reasoned order passed by the trial Court and wrongly acquitted the accused under Section 498-A of the IPC without properly considering the evidence on record. It has been further iterated that the acquittal of the accused is erroneous, as the statements of material witnesses clearly established specific instances of cruelty and dowry demands by the accused. Furthermore, the complainant, in her testimony as PW-1, stated that soon after her marriage, the accused started demanding dowry and harassing her which fact has been corroborated by PW-2 Ved Parkash. It has been further argued that the prosecution witnesses had fully established the case against the respondent No.2 and the trial Court has rightly convicted him but the appellate Court has failed to properly appreciate the evidence on record in

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correct perspective. Moreover, the trial Court has rightly observed that the accused has raised the demands of dowry and harassed the complainant when their demands were unmet. However, the appellate Court has failed to appreciate these facts and the evidence on record, including the consistent testimony of the complainant as PW-1 and the supporting statements of PW-2 Ved Parkash and other witnesses. It has been further argued that the judgment of acquittal passed by the appellate Court is prima facie perverse and contrary to the established principles of law, as it disregards the facts, circumstances and evidence that clearly substantiate the case of the prosecution. Thus, it has been prayed that the instant revision petition be allowed.

7. At the outset, it is pertinent to mention herein that the revisional jurisdiction under Section 397 read with section 401 of Cr.P.C. is distinct from appellate jurisdiction, as it does not involve re-evaluating the evidence or re-appreciating the findings of fact. The revisional Court primarily examines whether the lower Court's order suffers from legal infirmities, procedural irregularities, or lack of propriety. Revisional powers aim to correct substantial errors or prevent miscarriage of justice, not to act as a substitute for an appeal. Hence, the scope is limited and discretionary. It is pertinent to mention herein that while adjudicating an appeal against an order of acquittal, the appellate Court operates within the circumscribed framework. The appellate Court is precluded from engaging in a wholesale re-appreciation or reassessment of evidence unless the conclusions drawn by the trial Court are patently perverse, unreasonable or unsupported by the record. The principles governing the scope of interference by the High



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Court in an appeal against the judgment of acquittal, have been laid down by the Hon'ble Supreme Court in the judgment passed in the case titled as ***Babu Sahebagouda Rudragoudar and others versus State of Karnataka, 2024 INSC 320=2024(2) Law Herald (SC) 928*** held as under:

"39. Thus, it is beyond the pale of doubt that the scope of interference by an Appellate Court for reversing the judgment of acquittal recorded by the trial Court in favour of the accused has to be exercised within the four corners of the following principles:-

- (a) That the judgment of acquittal suffers from patent perversity;*
- (b) That the same is based on a misreading/omission to consider material evidence on record;*
- (c) That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record."*

The underlying principles, as discussed above, are broadly have to be followed in a revision against an order of acquittal also. Thus, the present revision petition must be examined in context and after drawing guidance from the aforementioned principles.

8. The allegations in the present case relate to subjecting the victim to cruelty on account of dowry demand as defined under Section 498-A. Section 498-A of the IPC is reproduced as under:-

"498-A. Husband or relative of husband of a woman subjecting her to cruelty.- *Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.*

Explanation. For the purposes of this section, "cruelty" means-

- (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or*
- (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for*



any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

To secure a conviction under Section 498-A of the Indian Penal Code (IPC), the prosecution must establish specific ingredients of the offence beyond a reasonable doubt. This provision criminalizes cruelty by the husband or his relatives against a woman, necessitating the prosecution to demonstrate the following elements. Firstly, it must be proved that the accused is either the husband of the woman or a relative of the husband. Section 498-A exclusively applies to persons in a marital relationship or those connected to the husband. Secondly, the prosecution must establish the occurrence of "cruelty," as defined under this section. The term "cruelty" includes two broad categories. The first involves wilful conduct by the accused that is likely to drive the woman to commit suicide or cause grave injury or danger to her life, limb, or physical or mental health. Evidence of repeated physical assault, severe mental harassment, or any degrading treatment that endangers her well-being must be presented. The second category includes harassment of the woman or her relatives with a view to coercing them to meet unlawful demands for property or valuable security, commonly associated with dowry demands. Clear evidence of such coercive demands and the corresponding harassment must be brought to the court's notice. The prosecution must further establish the nexus between the accused person's acts and the harm suffered by the woman, showing that the cruelty inflicted directly endangered her mental or physical health or pushed her towards suicidal tendencies. Eyewitness testimony, corroborative medical or psychological evidence, and documented proof of harassment are crucial for

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substantiating the charge. Lastly, the prosecution must prove the accused person's wilful intent or knowledge of the consequences of their acts, ensuring that the case is firmly grounded in the facts and circumstances. A comprehensive presentation of evidence satisfying these requirements is indispensable to sustain a charge under Section 498-A.

9. In light of the above discussion, I have thoughtfully considered the arguments advanced on behalf of the petitioner, perused the entire record and the judgment passed by both the Courts below.

10. It is a well-settled principle of law that the burden rests upon the prosecution to establish the guilt of the accused through cogent and convincing evidence, and any failure to do so entitles the accused to the benefit of doubt. The case put forth by the prosecution is riddled with material discrepancies, as discussed herein below, that substantially undermine its credibility and foundational strength.

11. As per the case put forth by the prosecution, the complainant (petitioner herein) has reiterated the version made in her complaint while appearing as PW-1. She alleged that soon after the marriage, she was pressured by the accused and his family members on account of demand of dowry. The instant case revolves around the allegations of dowry harassment by the accused against the complainant. The complainant testified that during the *lagan* ceremony, her brother-in-law Shiv Kumar demanded cash instead of gold ornaments and the prosecution witnesses had corroborated this claim. After the marriage, the accused allegedly demanded ₹5,00,000 and harassed the complainant both mentally and physically when the demands were not met. The uncle of the complainant had even attempted to

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mediate through a Panchayat settlement, but the accused failed to honor their assurances. The evidence, including consistent depositions by the complainant and witnesses, establishes that the accused had harassed and expelled the complainant from her matrimonial home due to unmet dowry demands. In order to prove its case, prosecution examined as many as six witnesses and closed its evidence. The statement of the accused (respondent No.2 herein) under Section 313 Cr.P.C. was recorded in which all the incriminating circumstances appearing in the prosecution evidence were put to him, which were denied by him in toto and he pleaded his false implication in the case.

12. The burden of proof lies entirely on the prosecution, which must present cogent and reliable evidence to establish the guilt of the accused. The trial Court held that the defence had highlighted the minor inconsistencies in the testimonies of the witnesses, but the same are irrelevant to the core issue. Further, the trial Court emphasized that such contradictions do not undermine the case of the prosecution if the material facts i.e. demand for dowry and the subsequent harassment of the complainant are proven, as in the instant case. Accordingly, the trial Court held that the accused is guilty under Section 498-A IPC and sentenced him accordingly.

12.1. Aggrieved, by the findings arrived at by the trial Court, the accused (respondent No.2 herein) had preferred an appeal. The appellate Court held that the key prosecution witnesses had failed to substantiate the allegations of cruelty. Furthermore, the independent witnesses had either denied witnessing any quarrels or provided vague statements that could not

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conclusively establish the allegations of demand of dowry. Additionally, the defense had successfully demonstrated that certain allegations were motivated by ongoing matrimonial disputes over financial matters, casting doubt on the veracity of the claims. The appellate Court further observed that the complainant namely Sushma (PW-1) testified that her marriage with the accused Kamlesh was solemnized on 12.05.2009. During the *lagan* ceremony, Shiv Kumar demanded ₹1.5 lakhs in dowry, and later, her in-laws harassed her with further demands of ₹2 lakhs and ₹5 lakhs. She alleged that her sister-in-law and brother-in-law abused and beat her when the demands were not met. The complainant returned to her parental home on 12.06.2009 and the accused Kamlesh later reiterated the demand for ₹5 lakhs. Ved Parkash (PW-2) and Bhola Ram (PW-3) had supported the claims of the complainant with regard to harassment but contradicted each other regarding Bhola Ram's mental condition. However, PW-3 Bhola Ram submitted no medical proof of his alleged unsoundness and stated that his testimony was recorded a month after the marriage. Furthermore, the Investigating Officer namely Jai Parkash (PW-6) revealed discrepancies in the allegations against the accused Kamlesh's relatives and noted that the accused namely Kamlesh was willing to reconcile, but the complainant Sushma refused. The discrepancies in the complainant's account and other witnesses suggest suppression of material facts which significantly weakens the case of the prosecution and casts a dent in the version of the prosecution. The appellate Court found no evidence of acts of cruelty or harassment compelling the complainant to meet dowry demands. Consequently, the allegations under Section 498-A IPC were not substantiated. While the complainant alleged



harassment, assault, and dowry-related cruelty, her testimony contained inconsistencies and contradictions when compared to her original complaint and medical evidence. In the considered opinion of this Court, the appellate Court does not sit in appeal but only examines the correctness, legality, or propriety of the findings of the lower Court. In the context of Section 498-A IPC, it is necessary to establish that the acts of the accused amounted to cruelty as defined under the explanation to the section. Mere allegations without substantive evidence are insufficient to secure a conviction.

12.2. In the considered opinion of this Court, the appellate Court has meticulously examined the evidence on record, including the statements of the complainant, witnesses, and other material. In the considered opinion of this Court, the appellate Court has rightly observed that there were inconsistencies in the testimony of the complainant and a lack of corroboration from the independent witnesses. The appellate Court has further emphasized that while matrimonial discord may lead to disagreements, not every such instance constitutes cruelty under Section 498-A IPC. In the instant case, the evidence presented did not rise to the standard of proof required in a criminal trial. The findings of the appellate Court are based on sound reasoning and are in consonance with the settled principles of law. No procedural irregularity or perversity has been pointed out in the judgment passed by the appellate Court. As per the settled position of law, this Court, in its revisional jurisdiction, cannot re-appreciate the evidence unless there is a manifest error or perversity in the findings of the appellate court. No such ground has been established in this case.

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13. Furthermore, the allegations of the complainant with regard to dowry-related harassment, allegedly carried out with the involvement of her in-laws, have already been found baseless by the Investigating Agency. As narrated by the complainant in the FIR, as well as, in her deposition (when examined as PW-1) that she was physically abused by the accused and her in-laws but she had miserably failed to provide any medical evidence to substantiate this claim. While the doctrine of *falsus in uno, falsus in omnibus* – false in one thing, false in everything - is not recognized as a rule of evidence in India, is underlying principle cannot be entirely disregarded in assessing the story put forth by the complainant. In instances where the complainant is found to have falsely implicated all members of the accused person's family without any genuine material to substantiate them, it raises serious doubts about genuineness of her intention and veracity of her claims. While going through the record as well as the judgment passed by the appellate Court, it appears that the offence punishable under Section 498-A of the IPC are not proved on account of demand of dowry at the instance of the accused particularly when any act of cruelty or harassment at the instance of the accused remains unsubstantiated.

14. The facts that have emerged from the record of the case contradict the claims of the complainant with regard to issuance of threats and harassment and suggest a lack of intent on the part of the accused to cause harm. The inconsistencies in the complainant's testimony, coupled with her failure to report serious allegations, further erode the reliability of the case of the prosecution. In light of these contradictions, the version of the complainant does not inspire confidence and the requirement of proving

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guilt beyond reasonable doubt. Furthermore, the appellate Court noted that mere suspicion cannot substitute for proof in a criminal case. As the prosecution failed to meet the stringent standard of proving guilt beyond a reasonable doubt, the allegations under Section 498-A of IPC could not be established, and the accused was acquitted.

15. It is a well established principle in criminal jurisprudence that the burden of proof rests squarely upon the prosecution, which must establish the guilt of the accused beyond reasonable doubt. Any failure to meet this standard, particularly when key evidence is either missing or questionable, entitled the accused to the benefit of doubt. It has been consistently held that suspicion, however grave, cannot substitute for proof, and where there exists any reasonable doubt, the benefit of such doubt must be given to the accused person and he must be acquitted in accordance with law. In light of the above discussed discrepancies and inconsistencies, it can safely be inferred that the case put forth by the prosecution is false and there is no evidence of demand of dowry as projected by the complainant. Where the prosecution itself has failed to substantiate its case beyond reasonable doubt, as has happened in the case in hand, the defence, if any, raised/pleaded by the accused recedes into the background and rather becomes immaterial. The eagerness of the complainant to involve her father-in-law and mother-in-law through vague and general accusations further suggests an attempt to implicate all of the family members, regardless of their actual involvement, in an effort to harass them.

16. In the facts and circumstances of the entire case coupled with the fact that the allegations of demand of dowry are vague and general in



nature, the learned Additional Sessions Judge has rightly arrived at the conclusion that the story put forth by the prosecution was false and the allegations raised lack substance. The facts of the case clearly narrate that the complainant has intentionally tried to conceal the real genesis of the case. However, the appellate Court, have meticulously and judiciously examined the matter, appreciating the facts and evidence in their proper context. The appellate Court has rightly discerned the attempt of the prosecution to distort the narrative and have delivered the findings based on through evaluation of the material on record.

17. Perusal of the impugned judgment of acquittal dated 16.08.2017 passed by the appellate Court shows that the entire evidence led by the prosecution has been gone through in detail and in a painstaking manner and has dealt with each and every aspect of the case in a pragmatic manner. The judgment of acquittal is based on sound reasoning and does not suffer from any illegality or perversity. As such, the judgment of acquittal dated 16.08.2017 passed by the Additional Sessions Judge, Rewari setting-aside the order dated 01.06.2015 passed by Judicial Magistrate Ist Class, Kosli, is upheld. Resultantly, the present revision petition, being bereft of merits, fails and is dismissed.

18. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

December 03, 2024
Ajay