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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1225-2024
Date of Decision: 25.07.2024

SURINDER KAUR ...Petitioner

Versus

STATE OF PUNJAB AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Akshay Bansal, Advocate for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been preferred against the impugned judgement of acquittal dated 19.02.2020 passed by learned Judicial Magistrate Ist Class, Jalandhar in FIR No.182 dated 07.12.2012 registered under Section 498-A, 494, 465, 468, 420, 471, 120-B of IPC at Police Station-Navi Baradari, Jalandhar as well as judgement dated 16.03.2024 passed by learned Additional Sessions Judge, Jalandhar, whereby, the appeal filed by the petitioner was dismissed and the aforesaid judgment of acquittal was upheld.

2. Briefly, the facts are that the petitioner lodged the FIR (supra) against her husband-respondent no.2 and respondent no.3 by moving a complaint before the concerned police. In her complaint, the petitioner alleged that her marriage was solemnized in the year 1991, out of said wedlock, two children were born. After the birth of female child, the behaviour of respondent no.2 turned bitter and he started beating the petitioner while completely neglecting his children. Thereafter, the petitioner found out that her husband-respondent no.2 was in an illicit relationship with respondent no.3. Soon after, respondent no.2 stopped visiting the matrimonial home and started living with

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respondent no.3 in a rental accommodation. When the petitioner found out that the private respondents had built a new house and were performing house-warming ceremony, she reported the matter to police and consequently, the private respondents were apprehended from the said house. It was also alleged by the petitioner that the private respondents had performed illegal marriage. Inquiry ensued and during the pendency of the inquiry, the petitioner moved another application wherein she claimed that respondent no.2 had also withdrawn a sum of Rs.60,000/- in the year 2001 and a sum of Rs.1,55,000/- in the year 2005 from her GP Fund account by forging her signatures. Resultantly, the FIR (supra) came to be registered against the private respondents.

3. After completion of investigation and other formalities, police report was filed against the private respondents and after following due procedure, charges were framed against them for the commission of offences punishable under penal provisions mentioned in the FIR (supra) to which they pleaded not guilty and claimed trial. Ultimately, the learned trial Court, after recording that the prosecution failed in establishing the guilt of the accused persons beyond reasonable doubt, acquitted them of the charges framed against them. Aggrieved by the said acquittal, the petitioner has approached this Court by way of the present petition.

4. Learned counsel for the petitioner vociferously contends that the learned Courts below erred in ignoring the cogent evidence of the complainant who was examined as PW3 where she fully corroborated the specific allegations levelled against the private respondents by producing the relevant

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documents on record as Exhibit PW3/K, PW3/L, PW3/S and PW3/U. Further contended that grave error has been committed by not appreciating the evidence of the forensic expert Dr. Ashwani Kalia (PW-12) whereby he has categorically stated that signatures on the aforesaid documents do not match the signatures of the petitioner. He further submits that the prosecution version was fully supported by PW-11 who is the officer in charge of GPF Office of Commissioner of Police, Jalandhar. The petitioner had made specific allegations against respondent no.2 for performing illegal second marriage with respondent no.3 and in order to prove the same, their photographs were exhibited as Ex.PW-3/B to PW-3/I but the same went unacknowledged by the learned Courts below. The divorce petition filed by respondent no.1 was also dismissed by learned Additional District judge, Jalandhar vide order dated 01.11.2017, wherein, it was observed that it was respondent no.1 who was at fault. Further contended that despite the presence of such unimpeachable evidence on record, the private respondents have been wrongly acquitted by the learned Courts below.

ANALYSIS AND OBSERVATIONS

5. I have heard learned counsel for the petitioner and perused the paper-book with his able assistance. It transpires that the marriage of the petitioner was solemnized with respondent no.2 in the year 1991, after which, the cohabited till the year 1997. First ever complaint against respondent no.2 that saw the light of day was moved in 2011 by the petitioner, i.e., almost 14 years after separation. Further, no medical evidence has come on record to establish that the petitioner received beatings at the hands of respondent no.2.

The fact that the petitioner did not examine even a single witness from the

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locality where the resided together also vitiates her case. It is pertinent to note that the brother of the petitioner was convicted for throwing acid upon respondent no.2. Furthermore, it comes to the fore that the petitioner has tried to make material improvements in her case. No cogent evidence has come on record to show that respondent no.2 and 3 were living in an adulterous relationship. Although, it has been proved by the evidence of the expert (PW-12) that the signatures of the petitioner on the concerned document (Ex.PW3/L) were forged but it has nowhere been proved that the said forgery was done by respondent no.2. Interestingly, officer in charge of GPF Office of Commissioner of Police, Jalandhar (PW-11) admitted in his cross-examination that the employee/account holder has to come in person in order to withdraw any amount from their account which points towards the fact that respondent no.2 could not have possibly withdrawn the alleged amount. Furthermore, the petitioner has miserably failed to bring any cogent evidence on record to prove that she was harassed on account of dowry. All the aforesaid facts, clubbed together, are sufficient for this Court to opine that there is no force in the arguments put forth by the learned counsel for the petitioner.

6. Furthermore, the 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, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability



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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 v. State of H.P., 1973 (2) SCC 808 and Chandrappa and others v. 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 the trial Court.

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

CONCLUSION

8. 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 the learned Courts below which warrants interference by this Court. As such, there is no merit in the present petition and the same stands dismissed.

9. Pending miscellaneous application(s), if any, shall also stand disposed of accordingly.

25.07.2024

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(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No