



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SR. No.241

CRM-A-1765-2019
Decided on:13.08.2024

Rajesh

...Applicant

Versus

Naresh Kumari

...Respondent

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Sumit Sangwan, Advocate
for the applicant.

N.S. SHEKHAWAT, J.

1. The applicant has filed the present application under Section 378(4) of the Code of Criminal Procedure with a prayer to grant special leave to appeal against the impugned judgment dated 29.05.2019 passed by the Court of Judicial Magistrate 1st Class, Bhiwani, whereby the respondent has been acquitted of the charge under Section 500 IPC.

2. The applicant had filed the present complaint against the respondent/accused by stating that the applicant was working as a Guest Teacher in a Government School. She was suffering from uterus prolapse and was admitted in Gulia Nursing Maternity and Surgical Clinic, Bhiwani on 14.06.2012 and after a surgery, she was discharged from the hospital on 19.06.2012. The respondent moved a complaint dated 15.11.2012 and on the basis of the said application, FIR No.262 dated 15.11.2012 under Sections 498-A/406/506 IPC was registered against the applicant and others. The



Jagran City, Dainik Bhaskar and Aaj Samaj. Due to the false allegations levelled by the respondent in her application dated 15.11.2012 and due to publication of defamatory matters in the newspapers, the reputation of complainant had been lowered down in the estimation of right minded members of the society. It was further averred that after investigation by the police, the version of the accused/respondent in the complaint dated 15.11.2012 was found to be false and a cancellation report was filed by DSP, Bhiwani. In fact, a major surgery was performed on the applicant in the hospital at Bhiwani and the allegations were totally false. Due to this, her reputation had been tarnished in the society.

3. After recording of preliminary evidence, the respondent was ordered to be summoned under Section 500 IPC. In the pre-charge, evidence, the applicant appeared as a witness and had exhibited the following documents:-

Ex.C1:-	Copy of FIR
Ex.C2 to C4:-	Cutting of newspapers
Ex.C5:-	Copy of application
Ex.C6 to C9:-	Documents related to the treatment of complainant in the hospital.
Ex.C10:-	Copy of Out Patient Card
Ex.C11:-	Treatment record.
Ex.C12 & 13:-	Copy of investigation form, PGIMS Rohtak.
Ex.C14:-	Treatment record.
Ex.C15:-	Copy of X-ray investigation form
Ex.C16:-	Copy of Pre-Anaesthetic Record
Ex.C17:-	Discharge slip
Ex.C18 to 28:-	Documents related to the treatment of complainant in the hospital.
Ex.C29 to Ex.C33:-	Record of criminal proceedings.
Ex.P1 to Ex.P16:-	Medical record of Rajesh (complainant)
Ex.P17 to Ex.P19:-	Newspaper cutting
Ex.PA to Ex.PZ:-	Record of criminal proceedings between the parties
Ex.PZ1 to Ex.PZ10	Copy of plaint.
Mark B to Mark L:	Status report of criminal case



4. Thereafter, charge under Section 500 IPC was framed against the respondent. In the after charge evidence, the respondent stated that she did not want to cross-examine the witnesses and the earlier examination may be read as after charge evidence.

5. After closure of the prosecution evidence, the statement of accused-respondent was recorded under Section 313 Cr.P.C. and she pleaded her false implication.

6. Learned counsel for the applicant has submitted that the complainant/applicant was working as a Guest Teacher in the Education Department, Haryana and she was suffering from uterus prolapse for the last many years. She was operated upon in a hospital and the documentary evidence was also placed on record in this regard. However, on 15.11.2012, the respondent lodged a false FIR against the applicant and her family members. Due to this, the reputation of the applicant was badly suffered, which is also violative of Article 21 of the Constitution of India. Learned counsel has further submitted that in the present case, no evidence was led by the respondent to disprove the charge. The learned court completely overlooked the material documents and the evidence placed on record by the applicant and the respondent was wrongly acquitted. Thus, the impugned judgment is legally unsustainable.

7. I have heard counsel for the applicant and perused the case file carefully.

8. The main allegation by the applicant in the present case is regarding lodging of a complaint dated 15.11.2012 by the respondent on

false charge of demand of dowry. No doubt, a cancellation report was



presented by the police qua the applicant. However, the trial of the other accused in the said case is still pending against the family members of the applicant. In fact, the applicant and the respondent are closely related and the respondent had levelled allegations against her husband and other family members in good faith.

9. In fact, the present applicant is also a family member of husband of the respondent. Thus, levelling of allegations by the respondent against her husband and her other family members would not constitute any offence, as it falls within the ambit of ninth exception of Section 499 of IPC. The said exception clearly lays down that the imputation made in good faith by a person for protection of his or others' interest would not constitute defamation. In the present case also, the respondent made a complaint against the applicant and others before the police authorities and on the strength of complaint dated 15.11.2012, FIR No.262 dated 15.11.2012 under Sections 498-A/406/506 IPC was ordered to be registered against the applicant and her other family members. Now, the trial was still pending against the family members of the applicant. Thus, no offence under Section 500 IPC was made out against the respondent.

10. It has been held by the Hon'ble Supreme Court in the matter of **"Bhaskarrao and others Vs. State of Maharashtra", 2018 AIR (Supreme Court) 2222; 2018 (5) RCR (Criminal) 228** as follows:-

"14. As the trial court and High Court, having appreciated the evidence on record, has come to diametrically opposite conclusions, mandating herein to observe certain witness statements which may have an important bearing in this case. In the processes of appreciating the evidence at the appellate stage, we need to keep in mind the views of this court as



expressed in ***Tota Singh and Anr. v. State of Punjab, 1987(2) RCR (Criminal) 35 : 1987 CriLJ 974 -***

"The High Court has not found in its judgment that the reasons given by the learned Sessions Judge for discarding the testimony of PW2 and PW6 were either unreasonable or perverse. What the High Court has done is to make an independent reappraisal of the evidence on its own and to set aside the acquittal merely on the ground that as a result of such reappraisal, the High Court was inclined to reach a conclusion different from the one recorded by the learned Sessions Judge. This Court has repeatedly pointed out that the mere fact that the Appellate Court is inclined on a reappraisal of the evidence to reach a conclusion which is at variance with the one recorded in the order of acquittal passed by the Court below will not constitute a valid and sufficient ground for setting aside the acquittal. The jurisdiction of the Appellate Court in dealing with an appeal against an order of acquittal is circumscribed by the limitation that no interference is to be made with the order of acquittal unless the approach made by the lower Court to the consideration of the evidence in the case is vitiated by some manifest illegality or the conclusion recorded by the Court below is such which could not have been possibly arrived at by any court acting reasonably and judiciously and is, therefore, liable to be characterized as perverse. Where two views are possible on an appraisal of the evidence adduced in the case and the court below has taken a view which is plausible one, the Appellate Court cannot legally interfere with an order of acquittal even if it is of the opinion that the view taken by the Court below on its consideration of the evidence is erroneous."

15. In ***Ramesh Babulal Doshi v. State of Gujarat, 1997(3) RCR (Criminal) 62 : 1996 CriLJ 2867***, this Court observed:

"This Court has repeatedly laid down that the mere fact that a view other than the one taken by the trial Court can be



legitimately arrived at by the appellate Court on reappraisal of the evidence cannot constitute a valid and sufficient ground to interfere with an order of acquittal unless it comes to the conclusion that the entire approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellate court answers the above question in the negative the order of acquittal is not to be disturbed."

11. Still further in **Criminal Appeal No(s.) 410-411/2015 [Ravi Sharma Vs State (Government of N.C.T. of Delhi) and another]**, decided on **11.07.2022**, Hon'ble the Supreme Court has held as under:-

*"Before venturing into the merits of the case, we would like to reiterate the scope of Section 378 of the Code of Criminal Procedure (for short 'Cr.P.C.') while deciding an appeal by the High Court, as the position of law is rather settled. We would like to quote the relevant portion of a recent judgment of this Court in **Jafarudheen and Others v. State of Kerala (2022 SCC Online SC 495)** as follows:*

"25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC, 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 analyzed. 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.”

12. Keeping in view the above referred discussion and the law laid down by the Hon'ble Supreme Court, it can be safely concluded that the impugned judgment by the learned trial Court is based on sound reasons and there does not seem to be any illegality or perversity in the impugned judgment. Accordingly, the present application for grant of special leave to appeal is ordered to be dismissed, being devoid of any merits. Pending application(s), if any, shall also stand disposed off, accordingly.

13.08.2024
mks

(N.S.SHEKHAWAT)
JUDGE

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO