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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2322-2022 (O&M)
Date of Decision: 23.09.2024

Sonia Sharma

...Petitioner

Versus

Shashi Pal Sharma and others

...Respondents

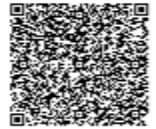
CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ankur Mehta, Advocate and
Mr. Gagandeep Rana, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

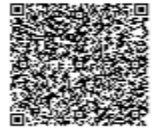
1. Present revision petition has been preferred against the impugned judgment dated 14.01.2022 passed by learned Additional Sessions Judge, S.B.S. Nagar, whereby the judgment dated 27.03.2019 passed by learned Judicial Magistrate 1st Class, S.B.S. Nagar acquitting respondents No.1 to 4, in a case arising out of FIR No.06 dated 04.02.2016 under Sections 498-A, 406, 506 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station City Banga, District SBS Nagar, was upheld.
2. Briefly, the facts are that the petitioner moved a complaint on 10.07.2015 before the concerned police, wherein it was alleged that her

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marriage was solemnized with respondent No.1 on 31.01.2008. Soon after her marriage, the private respondents/accused started harassing her for dowry amount of Rs.5.00 lacs and even gave her beatings on multiple occasions. It was also mentioned by the petitioner that she had earlier moved an application dated 13.05.2015 before the concerned police due to the brutal treatment meted out to her, but the matter was settled on 15.05.2015 after the accused persons assured her of better behaviour. It was also agreed that respondent No.2 (brother-in-law/*jeth*), respondent No.3 (mother-in-law) and respondent No.4 (sister-in-law/*nanand*) would refrain from interfering in their matrimonial life. But to her dismay, the cruel treatment did not stop. It was also alleged that the petitioner had come to her parental home on 13.06.2015, as her father was not keeping well, but her husband never came to take her back. The aforesaid complaint culminated into FIR (*supra*) and criminal machinery was set into motion. Upon completion of investigation and necessary formalities, final report under Section 173 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') was submitted by the jurisdictional police before learned trial Court.

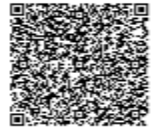
3. Consequently, the accused were chargesheeted under Sections 498-A, 406, 506 of IPC, to which they pleaded not guilty and claimed trial. The trial ensued and ultimately, respondents No.1 to 4 were acquitted of the charges framed against them. Aggrieved by their acquittal, the petitioner-complainant filed an appeal before learned Additional Sessions Judge, S.B.S. Nagar, which



was dismissed being devoid of any merit. Still perturbed, the petitioner is agitating their acquittal in the present revision petition.

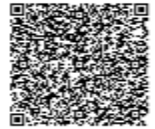
4. Learned counsel for the petitioner, *inter alia*, contends that the evidence on record is sufficient to establish the guilt of respondents No.1 to 4-accused. Specific allegations have been levelled against the accused, which have been duly corroborated by the testimony of the prosecution witnesses. It is further contended that learned Court below erred in acquitting the accused despite presence of unimpeachable evidence.

5. I have heard learned counsel for the petitioner and perused the record of the case with his able assistance. It transpires that although the complainant has alleged that prior to the complaint dated 10.07.2015 (Ex.PW8/A), she had moved an application on 13.05.2015 before the concerned police qua the cruel treatment meted out to her on account of demand of dowry, however, the prosecution has failed to prove the same. The petitioner, while being examined as PW-8, took a categorical stand before learned trial Court that soon after her marriage, she was subjected to harassment at the hands of the accused, but the only complaint on record alleging the same has been moved after 07 years of her marriage. Further, the petitioner has deposed that Panchayats were convened on numerous occasions, but for some inexplicable reason, the prosecution failed to examine any independent witness to establish the same. On the contrary, the witnesses examined by the prosecution have not supported the version of the complainant. Furthermore, no one from the



parental family of the complainant was examined as a witness. Further, perusal of the material on record goes on to show that the complainant has not remained consistent with her allegations of demand of dowry. In her complaint dated 10.07.2015 (Ex.PW8/A), the petitioner has alleged that demand of Rs.5.00 lacs was put forth by the accused, but in her deposition before learned trial Court, she stated that they demanded Rs.2.00 lacs from her. Further, in her cross-examination before learned trial Court, the petitioner admitted that in the complaint (Ex. D1) filed by her under the Protection of Women from Domestic Violence Act, 2005, it was alleged that the accused raised a demand of Rs.10.00 lacs from her. No evidence has been brought on record to conclusively prove that articles worth Rs.70,000/- were given to the accused by the family of the petitioner. The allegations levelled by her are devoid of any specificity. In the case at hand, guilt of the private respondents under Sections 406, 498-A, 506 of IPC has nowhere been established beyond reasonable doubt. The aforesaid facts, when clubbed together, create serious dent in the prosecution version and are sufficient for this Court to uphold the impugned judgments of acquittal passed by learned Courts below.

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,



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 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 learned trial Court.

7. 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;

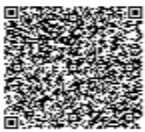
(1) An appellate Court has full power to review, re-appreciate and reconsider the evidence upon which the order of acquittal is founded;

(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

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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."

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 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.

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

[HARPREET SINGH BRAR]
JUDGE

23.09.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No