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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 16.10.2024

Palwinder Kaur

...Petitioner

V/s

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gagandeep Singh Manku, Advocate for the petitioner.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been filed against the judgment dated 09.08.2019 passed by Additional Sessions Judge, Gurdaspur, upholding the order dated 27.07.2016 passed by Judicial Magistrate Ist Class, Gurdaspur, whereby respondent Nos.2 to 5 (herein) was acquitted from the charges under Sections 498-A and 406 of IPC.
2. For clarity and simplicity, the revisionist-petitioner will be referred to as the 'complainant' while respondent Nos.2 to 5, 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 for adjudication are that the FIR No.134 dated 22.08.2009 was lodged against the accused-respondent Nos.2 to 5, all residents of HNo.43, Radha Krishan Colony, Batala, under Sections 498-A and 406 of the Indian Penal Code (for brevity the 'IPC') at Police Station City, Gurdaspur. The matter proceeded to trial before the Court of Judicial Magistrate Ist Class, Gurdaspur which concluded its proceedings and, vide judgment dated 27.07.2016, acquitted

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the accused of the charges *ibid*. Dissatisfied with the acquittal, the complainant preferred an appeal against the said judgment. However, the learned Additional Sessions Judge, Gurdaspur, vide judgment dated 09.08.2019, upheld the trial court's decision, affirming the acquittal of the accused. The appellate Court held that the complainant has miserably failed to prove necessary ingredients of Sections 498 and 406 of IPC and there is no illegality, infirmity or perversity in the judgment passed by the trial Court who had reached the appropriate conclusion based on the material facts presented during the trial and hence does not require any interference.

4. The petitioner, aggrieved by the consistent findings of both the trial Court and 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 FIR, is that the marriage of Palwinder Kaur (petitioner herein) was solemnized with accused Raminderpal Singh on 04.02.2005. It was asserted in the complaint that immediately after six months of the marriage, her in-laws started demanding dowry in the form of a car and cash, despite her father already providing significant dowry, including gold ornaments, a motorcycle, and ₹50,000 in cash. Despite repeated attempts of compromise through community panchayats, the harassment of the complainant continued. The complainant (Palwinder Kaur) later secured a government job, but her

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husband threatened to commit suicide if she joined the said government job. The stress from these incidents led to the death of the mother of the complainant due to a heart attack. Based on these allegations, a complaint was submitted by Captain B.P. Singh, brother of the complainant. After an inquiry, the allegations against the accused were substantiated, leading to the registration of the instant FIR. After completion of the investigation, a report under Section 173 of the Cr.P.C., 1973 was submitted before the competent Court of jurisdiction.

6. Learned counsel for the petitioner-complainant has iterated that both the Courts below have erred in acquitting the accused and the impugned orders are contrary to the law, facts and evidence on record. According to learned counsel, both the Courts below have acquitted the accused by holding that the prosecution has failed to establish the ingredients of cruelty as defined under Section 498-A and 406 of IPC as neither any specific date of any incident has been given nor the purchase of dowry articles has been proved *nay* has their entrustment been demonstrated. Moreover, the Courts below emphasized that in the absence of clear evidence supporting the allegations of dowry and entrustment, it would be unjust to convict the accused despite there being ample evidence on record. Learned counsel has further submitted that the trial Court has observed that multiple compromise were facilitated between the parties through M.C. Harinder Singh Batala but the failure to present him as a witness in the case has resulted in a significant gap in the prosecution's narrative. However, it is respectfully submitted by the learned counsel that the prosecution has already presented ample oral and documentary evidence to establish the essential elements of cruelty. As



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a result, the non-examination of M.C. Harinder Singh Batala does not weaken the case of the prosecution. It has been argued that the appellate Court has merely reiterated the findings of the trial Court and dismissed the appeal on flimsy grounds. Learned counsel has further canvassed that the both the Courts below have wrongly and unlawfully acquitted the accused, despite there being sufficient evidence on record to establish their guilt and hence their acquittal is not justified in light of the evidence presented.

7. The principles governing the scope of interference by the High 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.”*

8. In the light of the above principles laid down by the Hon'ble Supreme Court, I have thoughtfully considered the arguments advanced on behalf of the petitioner, perused the entire case record and judgments passed by the learned trial Court as well as by the appellate Court.

9. While going through the impugned judgments passed by both the Courts below, it appears that the prosecution has failed to satisfactorily

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discharge its burden of proof by presenting credible and reliable evidence or witnesses. 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.

10. As per the case put forth by the complainant, it is undisputed that the Palwinder Kaur (complainant) PW-1, stated in her examination-in-chief that she had married the accused Raminderpal Singh (respondent No.2 herein) on 04.02.2005, and her in-laws started torturing her for insufficient dowry just six months after the marriage. However, her brother B.P. Singh, in his written complaint (Ex. PW-3/A), mentioned that the dowry demands and harassment for a car and cash started after two years of marriage. This inconsistency/contradiction between the testimony of the complainant and the written complaint moved by real brother of the complainant cast a doubt on the prosecution's narrative. Moreover, complainant Palwinder Kaur, in her testimony, did not provide any specific details regarding the entrustment of dowry articles nor did she give any description of them. She also stated that she joined a government job in 2006, but her husband forbade her and threatened to commit suicide if she joined the said job. The complainant further claimed that her brother-in-law, Jatinderpal Singh (respondent No.3 herein), tore her appointment letter. However, during her cross-examination, the complainant admitted that this was not mentioned in her police statement (Ex. P-1). The complainant later clarified that she had applied for a job at Zila Parishad, but left the government job due to the young age of her child, not because of any worn out of appointment letter by accused Jatinderpal

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Singh (respondent No.3 herein). Instead, the complainant took a job at Bearing School with a salary of Rs.3500/-, and continued her studies, completing her MSc. after marriage while living with her in-laws. This clarification undermines her initial claim regarding the worn out of appointment letter. As a result thereof, the learned Trial Court had correctly held that from the perusal of the testimony of PW-1, she had made lot of improvements while stepping into the witness box. These inconsistencies not only weaken the case of the prosecution but also cast doubt on the credibility of her statements. Such changes in the version of the events by the complainant suggest a lack of coherence and reliability, raising concerns about the truthfulness of her allegations. In the considered opinion of this Court, the case of the prosecution, which relies heavily on the testimony of PW-1-complainant, is, therefore, compromised by these contradictions. For a case of this nature, consistency in the statement of the star witness is crucial for establishing a clear narrative. Furthermore, a thorough review of the statement of the complainant, recorded during trial, reveals that she had failed to provide any specific allegations of cruelty committed against her by the accused. Mere allegations of cruelty, without concrete details, are considered vague and frivolous. Additionally, the complainant has neither made any specific allegations with regard to the demand of dowry by the accused nor placed on record any material to suggest that the accused refused to return her dowry articles. There is no just and reasonable explanation forthcoming either from the evidence produced by the complainant or from the records of the case or from the averments made in the present petition, on this aspect.



10.1 Another shortcoming in the case is the significant contradiction in the testimony of the PW-3, the father of the complainant. He stated that his daughter (petitioner herein) was tortured by the accused for demand of dowry just after six months of her marriage which is contrary to the complaint (Ex. PW-3/A), which stated that the demands of dowry began after two years of the marriage. He also stated that the accused had torn the appointment letter of his daughter, but this was undermined by the testimony of PW-1 during her cross-examination. Furthermore, PW-3 had admitted that no medical examination or MLR was ever conducted regarding the alleged beatings. Similarly, the statement of the real brother of the complainant namely Major B.P. Singh, when examined as PW-8, conflicted with the statements of PW-1 and PW-3 respectively, with regard to the timing of the dowry demands and the tearing of the appointment letter. He admitted a motorcycle was given at the time of marriage which raises doubts about the subsequent demand made by the accused for Rs. 50,000 for another motorcycle and which further weakens the case of the prosecution. The aforesaid testimonies cast a significant element of doubt regarding the alleged demand of dowry or entrustment of dowry articles to the accused and potentially weaken the case of the complainant. To prove the offence of criminal misappropriation under Section 406 IPC, the prosecution needed to establish specific entrustment and the purchase of dowry articles. While the dowry list (Ex. PX) included items like a fridge, TV, and bed, the bills provided (Ex. PW-5/A) only covered a bed and trunk. Furthermore, the shopkeeper (PW-5) could not confirm the recipient of the bills, further weakens the case of the prosecution. The Courts below held that the dowry

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items were customary household items, and no specific entrustment or misappropriation was proven by the prosecution nor by its star witnesses i.e. PW-1, PW-3 and PW-8 respectively. Consequently, the prosecution has miserably failed to substantiate the charge under Section 406 of IPC.

10.2. Similarly, the offence under Section 498-A of IPC is concerned, both the Courts below came to the conclusion that there was great contradictions amongst the testimonies of PW-1, PW-3 and PW-8 respectively which made the story of the prosecution highly suspicious and hence the ingredients of Section 498-A of IPC against the accused are not made out.

11. 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 and they 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 the alleged incident as projected by the complainant. Where the complainant herself has failed to substantiate her 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. However, as has been noted by the learned appellate

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Court, while passing the judgment of acquittal, in para No.19 of the judgment that the prosecution also miserably failed to provide specific dates, months, or years when the complainant was allegedly beaten by her in-laws for demand of dowry, including demands for a car and cash. Moreover, the evidence revealed that the complainant completed her post-graduation while living at her in-laws' home, and there was no credible material on record which would suggest that her appointment letter was being torn. Instead, the complainant did not take the government job due to the young age of her child, and her husband had secured her a job at Baring School. Furthermore, there is no medical evidence on record to support claims of physical abuse by the accused. The eagerness of the complainant to implicate the accused through vague and general accusations further indicates a possible attempt to implicate them, regardless of their actual participation/involvement, in an effort to harass them.

12. In the facts and circumstances of the entire case coupled with the presence of multiple inconsistencies in the testimonies of the star witnesses, the learned Additional Sessions Judge, as well as, the learned trial Court, rightly arrived at the conclusion that the story put forth by the prosecution was false and the allegations raised lack substance.

13. The facts of the case clearly narrate that the prosecution has intentionally tried to conceal the real genesis of the case. However, both the Courts below i.e. trial Court and the appellate Court, have meticulously and judiciously examined the matter, appreciating the facts and evidence in their proper context. Both the Courts below have rightly discerned the attempt of



the prosecution to distort the narrative and have delivered their findings based on thorough evaluation of the material on record.

14. Perusal of the impugned judgments of acquittal passed by both the Courts below show 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 judgments of acquittal are based on sound reasoning; do not suffer from any illegality or perversity. As such, the judgment of acquittal dated 09.08.2019 passed by Additional Sessions Judge, Gurdaspur upholding the order dated 27.07.2016 passed by Judicial Magistrate Ist Class, Gurdaspur, is upheld. Resultantly, the present revision petition, being bereft of merits, fails and is dismissed.

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

(SUMEET GOEL)
JUDGE

October 16, 2024
Ajay

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