

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1269 of 2019**

Arising Out of PS. Case No.-101 Year-2008 Thana- KUDRA District- Kaimur (Bhabua)

Punam Devi @ Reena @ Reeta Devi, Wife of Chandra Bhushan Pandey @ Chandrabhushan Pandey @ Baka Pandey, D/O - Tilak Dhari Dubey @ Tilakdhari Dubey. Resident of Village - Ramdihara, P.S.- Kudra, District- Kaimur at Bhabua. At present Address- Resident of Village - Dubauli, P.S.- Karamchat (Sabar), District- Kaimur at Bhabua

... .. Appellant/s

Versus

1. The State of Bihar
2. Shiv Shankar Pandey @ Shivshankar Pandey Son of Late Janak Pandey Resident of Village - Ramdihara, P.S.- Kudra, District- Kaimur at Bhabua
3. Chandrabhushan Pandey Son of Shiv Shankar Pandey @ Shivshankar Pandey Resident of Village - Ramdihara, P.S.- Kudra, District- Kaimur at Bhabua

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rajani Kant Pandey, Advocate
For the Respondent/s	:	Ms. Shashi Bala Verma, APP

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and**

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 14-10-2025

The present criminal appeal has been preferred under Section 372 of the Code of Criminal Procedure, 1973 against the judgment of acquittal dated 28.06.2019 passed by the learned Fast Track Court-I, Kaimur at Bhabhua in Sessions Trial No. 246 of 2009, arising out of Kudra P.S. Case No. 101 of 2008, whereby Respondent Nos. 2 & 3 have been acquitted by the learned Trial Court from the charge of Sections 307, 341 read



with Section 34 of Indian Penal Code and Section 3 read with Section 4 of the Dowry Prohibition Act.

2. Vide order dated 22.07.2025, a legible xerox copy of the trial court records was called for, which was received on 30.08.2025.

3. The prosecution case, is that the informant was married to respondent No. 3 approximately six years before lodging of the FIR. When the informant came to her in-laws' house after wedding, her husband and father-in-law started torturing and assaulting her for dowry for which the informant filed a case, but on settlement, the accused took the informant back to their home. Their behavior remained unchanged as they again demanded a motorcycle and fifty thousand rupees as dowry and continued harassing her. On 21.09.2008, at approximately 10:00 AM, the informant's husband and father-in-law brought poison in a bottle and told her to drink it. When the informant refused, the accused started assaulting her. The informant's husband took a *lorha* and assaulted the informant's cheeks and mouth with it and her father-in-law climbed on her chest and crushed her, on account of which blood came out of the informant's mouth. The informant was screaming and at the same time the accused persons put a towel around her neck and started



pulling it. In the meanwhile, the informant's elder daughter started crying at the door saying that people are killing her mother. The villagers came and dragged the informant's husband and father-in-law out of the house. The husband also bit the informant's entire body with his teeth. The villagers informed the informant's brother and he brought the informant to Kudra police station where the informant submitted a written application on 22.09.2008.

4. On the basis of written statement of the informant, Kudra P.S. Case No. 101 of 2008 was instituted under Sections 341, 323, 307, 498-A of the I.P.C. and Section 3 read with Section 4 of the Dowry Prohibition Act and investigation was taken up by the police. The police after investigation submitted charge-sheet against respondent Nos. 2 & 3 and, accordingly, cognizance was taken. Thereafter the case was committed to the Court of Sessions. Charges were framed against the accused persons to which they pleaded not guilty and claimed to be tried.

5. During the trial, the prosecution examined altogether seven witnesses i.e. PW1- Punam Devi, PW2- Subhadra Devi, PW3- Vikash Dubey, PW4- Tilakdhari Dubey, PW5- Ramashankar Chaudhary, PW6- Dr. Sudarshan Singh and PW7- Dr. Ajay Pratap. The prosecution has also produced certain



documents which were marked as Exhibits, i.e. Ext. 1- Formal FIR, Ext. 2- Injury letter, Ext. 3- Injury report, Ext. 3/1- Signature of doctor Ajay Pratap on the injury report, Ext. 4- Certified copy of charge-sheet of Mahila P.S. Case No. 14 of 2012 and Ext. 5- Certified copy of charge-sheet of Kudra P.S. Case No. 54 of 2007. The defence has examined only one witness i.e. DW1- Wakil Pandey. After closure of prosecution evidence, the statements of the accused persons were recorded under Section 313 Cr.P.C. and after conclusion of trial, learned trial court has acquitted the accused persons.

6. The learned trial court, on the basis of the materials available on record, and the evidence produced before the court, acquitted the accused persons observing that the allegation of towel being wrapped around the neck of the informant is not corroborated by the medical evidence. The trial court has further observed that the prosecution witnesses have admitted in their cross-examination that a settlement had been reached between the informant and the accused and that there is no direct evidence of the accused demanding or accepting dowry and there is no evidence on record that the accused had committed any act with intent to kill the informant.

7. Learned counsel for the appellant submits that the



learned trial court has failed to consider the evidence of the prosecution witnesses who have fully supported the prosecution case (for demand of dowry), but merely on the ground of land dispute, the learned trial court has acquitted the accused persons. He further submits that the learned trial court has not considered the actual facts and circumstances of the case and due to minor contradiction in the evidence of the prosecution witnesses, acquitted the accused persons.

8. The learned counsel for the respondent-State submits that there is no perversity in the judgment of the learned trial court, and the prosecution had failed to prove the guilt of the accused before the learned trial court. Therefore, the order of the learned trial court requires no interference in the present case.

9. We have heard the counsel for the appellant and the respondent-State, and have also gone through the records of the case.

10. The sole question that requires consideration by this Court is whether the impugned judgment of acquittal requires any interference by this Court.

11. On an overall appraisal of the evidence on record, it is apparent that the prosecution has failed to prove its case beyond reasonable doubt.



12. According to the prosecution, on 21.09.2008, the informant was allegedly assaulted by her husband and father-in-law. The medical report prepared by Dr. Sudarshan Singh (PW-6) on 22.09.2008 revealed swelling near both eyes and the forehead, and a bruise on the cheek. There was, however, no sign of the alleged pain in the body and chest, as stated by the informant. The Doctor opined that all injuries were simple injuries caused by a hard and blunt object.

13. It further appears from the record that the informant subsequently underwent a second medical examination at Sadar Hospital, where she was admitted from 22.09.2008 to 01.10.2008, though no medical justification for this repeated check-up is recorded. Both medical reports indicate only simple injuries without any internal damage. Additionally, the second medical report states that the informant had sustained injuries on 20.09.2008, as per her own statement to the doctor. This discrepancy raises reasonable doubt regarding the precise date and time of the alleged offence.

14. Court Witness-1, the daughter of the informant, stated that she saw her father and grandfather forcibly attempting to put poison into her mother's mouth, which allegedly spilled. She further claimed that her father beaten her mother with a *Lorha*,



her grandfather kicked her mother's chest, and both wrapped a towel around her mother's neck and started pulling. However, several material inconsistencies arise. She did not show the police the place where the poison allegedly spilled, and no seizure of any object or substance relating to poison was made by the police. The alleged assault was claimed to have lasted approximately ten minutes, yet medical evidence shows only simple external injuries near the eyes and cheek, with no blood, no internal injuries, and nothing to indicate strangulation by a towel. The testimony is vague regarding the sequence of events and the role of each accused and is not corroborated by any independent witness.

15. Furthermore, PW-2, PW-3, and PW-4, namely, the mother, brother, and father of the informant, deposed that they were not eye-witnesses to the alleged occurrence, and nothing material regarding the alleged demand of dowry was stated by them. Therefore, offence under Section 3 read with Section 4 of the Dowry Prohibition Act cannot be sustained.

16. The conduct of the informant during the investigation and trial further weakens the prosecution case. Despite alleging physical assault, she did not immediately seek medical aid, and her first examination took place a day later.



Thereafter, she obtained another medical report from a different hospital without explanation. More importantly, during her deposition before the Court, the informant herself stated that the matter had been compromised between the parties and that she did not wish to proceed further against the accused persons. Such statement, being voluntary and unequivocal, reflects that the dispute was essentially matrimonial in nature, and that the complainant herself no longer supports the prosecution case. In *Narinder Singh and Others v. State of Punjab and Another* reported in (2014) 6 SCC 466, the Hon'ble Supreme Court held that in cases arising out of matrimonial discord where parties have amicably settled, continuation of criminal proceedings would serve no useful purpose, as observed in para 29 onwards of the judgment which reads as under:

“....29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

...

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil



character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves....”

17. Upon cumulative consideration, it emerges that the timing of compromise and resumption of cohabitation is not proved; medical evidence is inconsistent and lacks credibility; testimony of the daughter (Court Witness-1) is not corroborated by any independent witness; and the informant herself has declared compromise and unwillingness to pursue prosecution.

18. In such circumstances, this Court finds that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt.

19. For the reasons discussed above, this Court holds that the prosecution has not been able to prove the charge against the accused persons beyond reasonable doubt. The inconsistencies in medical evidence, absence of independent corroboration, and the express statement of compromise by the informant together create serious doubt regarding the prosecution version.

20. We find that the findings recorded by the learned



Trial Court do not suffer from any illegality and perversity. In a criminal case, it is incumbent upon the prosecution to prove the guilt of the accused beyond the shadow of all reasonable doubts. Wherever, any doubt is cast upon the case of the prosecution, the accused is entitled to the benefit of doubt.

21. In criminal appeal against acquittal what the Appellate Court has to examine is whether the finding of the learned court below is perverse and *prima facie* illegal. Once the Appellate Court comes to the finding that the grounds on which the judgment is based is not perverse, the scope of appeal against acquittal is limited considering the fact that the legal presumption about the innocence of the accused is further strengthened by the finding of the Court. At this point, it is imperative to consider the decision of the Hon'ble Supreme Court in the case of ***Mrinal Das vs. State of Tripura (2011) 9 SCC 479***, paragraphs 13 & 14 of which read as under:

"13. It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate court, it being the final court of fact, is fully competent to reappreciate, reconsider and review the evidence and take its own decision. In other words, the law does not prescribe any limitation, restriction or condition on exercise



of such power and the appellate court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person is presumed to be innocent unless he is proved guilty by the competent court. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the findings of acquittal.

14. There is no limitation on the part of the appellate court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate court can also review the conclusion arrived at by the trial court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the State, it is the duty of the appellate court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal is to be interfered with only when there are "compelling and substantial reasons" for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference....."

22. In the case of ***Ghurey Lal versus State of Uttar Pradesh*** reported in (2008) 10 SCC 450 in paragraph 75, the Hon'ble Supreme Court has observed as under:

"75. The trial Court has the advantage of watching the demeanour of the witnesses who have given evidence, therefore, the appellate court should be slow to interfere with the decisions of the trial court. An acquittal by the



trial court should not be interfered with unless it is totally perverse or wholly unsustainable.”

23. Thus, an order of acquittal is to be interfered with only for compelling and substantial reasons. In case, if the order is clearly unreasonable, it is a compelling reason for interference. But where there is no perversity in the finding of the impugned judgment of acquittal, the Appellate Court must not take a different view only because another view is possible. It is because the trial Court has the privilege of seeing the demeanour of witnesses and, therefore, its decision must not be upset in absence of strong and compelling grounds.

24. In view of the above, we do not find any illegality and perversity in the findings recorded by the Trial Court.

25. Accordingly, the present appeal is dismissed.

26. Pending application(s), if any, also stands disposed of.

(Sudhir Singh, J.)

(Rajesh Kumar Verma, J.)

Rajesh/-

AFR/NAFR	NAFR
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