

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble **Justice Prasenjit Biswas**

CRA 291 Of 2001

Rekha Pramanick

-Versus-

Basudev Pramanick & Others.

Amicus Curiae for the Appellant : **Mr. Soham Banerjee.**

For the Respondent no(s) 1 & 3 : **Mr. Arindam Sen,
Mr. Saurav Basu,
Mr. Gazi Faruque Hossain,
Ms. Sayanwita Auddya,
Ms. Varsha Roy.**

For the State : **Mr. Debashish Roy, Ld. P.P.
Mrs. Faria Hossain, Ld. A.P.P.
Mrs Baisali Basu.**

Hearing concluded on : **14.07.2025**

Delivered on : **24.09.2025**

Prasenjit Biswas, J:-

1. The present appeal is directed against the impugned judgment and order dated 27.03.2001 passed by the learned Additional Chief Judicial

Magistrate, Alipore in T.R. No. 387/1988 at the behest of the appellant/complainant.

2. By passing the impugned judgment the accused persons were found not guilty for commission of offence punishable under Section 498A/406 of the Indian Penal Code and they were acquitted from the charges framed against them.

3. Being aggrieved by and dissatisfied with the said impugned judgment and order of acquittal passed by the learned Trial Court, the present appeal is filed on behalf of the accused/respondents no. 1 to 3 in this case.

4. The instant case was started on the basis of a complaint lodged by the complainant before the Court of the learned Chief Judicial Magistrate, Alipore stating interalia that she was married with the accused no. 1 Sri. Basudev Pramanick on 01.07.1997 according to Hindu rites and customs and after marriage it was registered under the provisions of the Act. Thereafter, complainant went to her matrimonial home and started conjugal life therein. It is stated in the written complaint that at the time of marriage gold ornaments, clothings, utensils and furniture worth Rs. 39,000/- were given to the complainant as dowry.

5. It is stated in the complaint that on 03.07.1997 i.e. the date of 'Fulsyaa' the husband of the complainant (accused no. 1) entered the 'Fulsyaa' room along with this complainant but he suddenly tried to

leave the room at about 1:00 am. The complainant raised objection and wanted to know the reason for leaving the room of her husband but the accused (husband) started to assault this complainant and disclosed that he had sexual relation with a widow and would go to her residence. It is stated by the complainant that out of fear she did not disclose the matter to anybody and looking for better future. She controlled herself with the expectation that the good sense would prevail upon the accused. It is stated that on the following day of 'Bouvat' the accused put pressure upon this complainant to bring colour T.V., gold chain from her father when she expressed her inability to fulfill the demand of her husband, the accused husband assaulted the complainant physically and mentally and such type of torture was continued on regular basis. After 7 days from marriage the complainant came to her parent's house and disclosed the facts of torture on demand of dowry before her parents and other relations. Thereafter, the parents of the complainant went to the matrimonial home of their daughter and finding no other way took the complainant back of their house. It is stated in the complaint that several correspondences were made thereafter between the parties which yielded no results and the accused and appellant no. 1 did not turn up to take back the complainant from her parental house. Finding no other way this complaint was filed by the complaint before the Court and the case was started.

6. After taking evidence and after due consideration of the same the learned Trial Court framed charges under Section 498A/406 of the IPC against all the accused persons.

7. In this case four witnesses were cited on behalf of the complainant.

8. Mr. Soham Banerjee, learned Amicus Curiae, has said that the learned Trial Court committed mistake and error in acquitting these respondent nos. 1 to 3 from this case. It is said that the evidences of the prosecution witnesses are consistent with the allegation as stated by PW1/de-facto complainant in the written complaint. The said torture was inflicted upon the complainant by the accused persons on demand of dowry and for illicit affairs carried on by the accused. Mr. Banerjee further contended that there is clear sufficient corroboration of the evidence of torture which would be apparent from the evidence of PW1. All the witnesses cited on behalf of the complainant supported the contentions as made out in the written complaint. It is said by the learned Advocate that at the time of marriage of this appellant sufficient dowries were given to the respondent no. 1 worth Rs. 39,000/- and it would appear from the evidence of PW1 that on the day of 'Bouvat' at about 1:00 am the husband of the complainant went away from the room and as her daughter resisted, the respondent no. 1 assaulted the complainant. It is further said that the appellant no. 1 put pressure upon the complainant to obtain her signature on a plain paper. It is said

by the learned Advocate that articles including the ornaments which were given in the marriage of the complainant, the said gold ornament has not yet been recovered from the possession of the opposite parties and accordingly, the accused persons committed criminal breach of trust which is punishable under Section 406 of the Indian Penal Code. Lastly, Mr. Banerjee, submitted that although, there are sufficient evidences which were adduced on behalf of the prosecution to establish the charge framed against the opposite party nos. 1 to 3 despite such evidences brought on record the learned Trial Court passed the impugned judgment and order of acquittal which do not stand under the eye of law. So, it is said that the instant appeal may be allowed after setting aside the judgment and order of acquittal passed by the learned Trial Court.

9. Learned Advocate for the Respondents No(s) 1 and 3 has said that there are no materials in the record for which the impugned judgment and order passed by the learned Trial Court may be interfered with. It is said that the complainant has hopelessly failed to prove the charge labeled against the accused persons. There is no evidence in the record for which it can be said that the accused used to inflict physical and mental torture upon the appellant for demand of more dowry. It is further contended by the learned Advocate that such type of torture as allegedly made by the opposite party nos. 1 to 3 is not corroborated either by the complainant or the other witnesses cited on behalf of her. It is said that in the petition of complaint it is mentioned that articles

worth Rs. 39,000/- were given and in the deposition it is said that articles worth Rs. 59,000/- were given and through search warrant complainant has already recovered all the articles. So, the charge framed under Section 406 of the IPC is not tenable under the law. So, it is said by the learned advocate that the present appeal preferred by the appellant/complainant is devoid of any merit and may be rejected outright.

10. The learned Advocate, appearing for the State, supported and reiterated the reasoning and conclusions reached by the Trial Court in the impugned judgment.

11. I have given my anxious and careful consideration to the submissions advanced by both parties and has meticulously examined all the materials placed on record.

12. PW1, Rekha Pramanik, who is the complainant in the present case, has deposed before the learned Trial Court largely corroborating the contents of her written complaint. She stated that she was married to respondent/opposite party no. 1 on 01.07.1997 and subsequently went to reside in her matrimonial home. According to her testimony, at the time of marriage, various articles, including clothing, furniture, utensils, and gold ornaments, were given to her husband. The complainant further stated that, shortly after her marriage, she was subjected to both physical and mental torture by her husband and other members of his household. This ill-treatment was allegedly inflicted

upon her on account of her inability to fulfill demands made by respondents no. 1 to 3, which included a colour television and a gold chain. PW1 also deposed that on the third day of 'Bouvat,' the respondent no. 1 physically assaulted her and informed her that he intended to meet a lady whom he had loved prior to marriage, and thereafter he left the house. She stated that, following this incident, she returned to her parental home and disclosed the torture inflicted by her husband to her parents and other relatives before returning to her matrimonial home. It was further stated that her father (PW2) and uncle later visited her matrimonial house to take her back, citing the illness of her mother as a reason. However, during cross-examination, PW1 admitted that she had lived with her husband for only one week. She also acknowledged that she had not made any complaint to the police regarding these incidents. Importantly, the complainant candidly admitted that not all the articles given at the time of marriage were her personal property, and a significant portion belonged to the father of respondent no. 1.

13. PW1 further deposed that her parental residence is located in Kolkata, where she had access to basic amenities, including electricity, fans, and a television. In contrast, her matrimonial home was situated in a village and lacked electricity and related facilities. She also stated that, after her marriage, she came to know that her husband was unemployed.

14. PW2, Sailen Das, the father of the complainant, deposed that at the time of his daughter's marriage, he had given articles valued at approximately Rs. 30,000/- to Rs. 35,000/- to respondent no. 1. He further stated that, despite this, the respondents demanded additional items, including a colour television and a gold chain, and on her failure to comply with these demands, his daughter was subjected to physical assault. On learning of this, he went to her matrimonial home and brought her back to his residence. In his cross-examination, PW2 admitted that he visited his daughter's matrimonial home about five to six days after the marriage and took her back under the pretext that her mother was unwell. He further stated that, subsequent to this incident, the complainant never returned to her father-in-law's house. PW2 also expressed that, although his son-in-law initially appeared inclined to maintain a cordial and healthy relationship, he (the son-in-law) ultimately did not wish to sustain such relations. Thus, the testimony of PW2 reflects both the alleged dowry-related demands and the physical harassment of the complainant, while also highlighting the brevity of her stay in the matrimonial home and the failure of the respondents to maintain a harmonious marital relationship.

15. PW3 the uncle of the victim has stated in the same line of PW1 and PW2 and said that the complainant told various incidents and they recovered some articles from the police station and some could not be found.

16. PW4, Minoti Das, the mother of the victim, largely echoed the version of her husband, PW2, in her testimony. She stated in her examination-in-chief that approximately seven days after the marriage, her daughter confided in her about the difficulties she was facing in her matrimonial home. According to PW4, the complainant disclosed that she was unable to continue her married life and alleged that her husband would frequently go away to meet a widowed lady. It is noteworthy that PW1, in her own deposition, also stated that her husband had assaulted her and then left to meet a widow. While such an allegation is indeed serious and, if true, would constitute grave misconduct, it is imperative in a criminal trial that such claims be corroborated by independent or material witnesses. Strikingly, this particular aspect of PW1's testimony finds no corroboration from PW2, her father, who is a material witness and closely involved in the events. Moreover, the complainant did not narrate any such incident of assault or cruelty at the time of her deposition before the Trial Court, creating a material inconsistency in the prosecution case. This discrepancy undermines the credibility of the allegations and raises doubts regarding the veracity of the claim that the accused inflicted physical or mental cruelty upon the victim. Such inconsistencies are significant, as they weaken the prosecution's narrative and cast serious doubt on the reliability of the complainant's version of events.

17. PW4, the mother of the complainant, deposed that she, along with other family members, visited her daughter's matrimonial home and stayed there for approximately an hour. She stated that after having their dinner, they all left that night. According to her testimony, there was no conversation between herself and the complainant on that occasion regarding any alleged assault or cruelty. PW4 further stated that it was only seven days later, when the complainant visited again, that she disclosed to her the difficulties she was allegedly facing in her matrimonial home. The complainant informed PW4 that her husband would go away to meet a widowed lady. However, PW4 admitted that she made no effort to ascertain the name or identity of the widow with whom her son-in-law was purportedly involved. Such an omission on the part of PW4, who is both the mother of the complainant and a natural witness to the events, is significant and cannot be lightly disregarded. It points to a lack of diligence in verifying the critical aspects of the allegation and raises serious doubts regarding the authenticity of the claims made by the complainant. This failure to substantiate key elements of the narrative casts a shadow over the credibility of the prosecution case and indicates that the allegations of assault and cruelty may not be firmly grounded in fact.

18. A careful perusal of the evidence on record reveals that there is no clear, cogent, or trustworthy material to establish that the complainant, PW1, was subjected to cruelty or harassment by the accused persons on

account of any unlawful demand for dowry, such as a color television, a gold chain, or any other valuable articles. The allegations made by the complainant remain vague, omnibus, and generalized, lacking the specificity required to substantiate a criminal charge under Section 498A of the Indian Penal Code. It is apparent from the record that the evidence adduced by the complainant suffers from significant contradictions and omissions. Not only is there an absence of corroboration from independent or material witnesses, but the few statements tendered are inconsistent both internally and with other testimonies. These discrepancies further erode the reliability and credibility of the prosecution case. In the absence of precise and credible evidence demonstrating the essential elements of cruelty or harassment, the allegations set forth under Section 498A IPC cannot be accepted. Mere assertions, unsupported by trustworthy testimony or corroborative material, are insufficient to sustain a conviction. Consequently, the prosecution has failed to prove its case beyond reasonable doubt, rendering the allegations of dowry-related cruelty unworthy of judicial acceptance.

19. PW1/complainant has stated in his evidence that since after her marriage her husband (respondent no. 1) along with other accused persons started to inflict physical and mental torture upon her on demand of more dowry. But either complainant or her parents did not lodge any immediate complaint regarding the alleged act of torture before

any competent authority or the local police station. The absence of such contemporaneous complaint before any appropriate authority creates a serious doubt regarding the veracity of the allegation. The complainant is totally silent in this aspect and did not offer any explanation for such omission. This conduct on her part runs contrary to the normal course of human behavior and casts a shadow on the credibility of her allegation. In view of such omission the case of the complainant suffers from a serious infirmity and the prosecution version with regard to alleged torture cannot be accepted as proved beyond reasonable doubt.

20. On totality of the circumstances, and in view of the glaring inconsistencies and absence of corroboration, I am of the opinion that the prosecution has failed to prove any charge under Section 498A of the IPC beyond reasonable doubt. Accordingly, the benefit of such doubt must necessarily inure to the accused persons.

21. It is noted from the written complaint filed by the complainant that articles valued at Rs. 39,000/- were allegedly given at the time of her marriage. However, in her deposition before the Court, the complainant stated that articles worth Rs. 59,000/- were given, without specifying the exact nature or type of the gold ornaments entrusted. PW2, the father of the complainant, has deposed that the articles given at the time of marriage were valued at Rs. 30,000/- to Rs. 35,000/-. This variation in valuation and lack of specificity regarding the articles is significant, as it introduces material inconsistencies in the prosecution case. Further, the

complainant herself candidly admitted that not all the articles allegedly entrusted at the time of her marriage were exclusively her property. She acknowledged that a substantial portion of the articles belonged to the father of her husband. Such an admission is of considerable importance, as it undermines the very foundation of the prosecution case regarding the alleged entrustment of dowry articles, a critical element for establishing an offence under Section 406 of the Indian Penal Code. It also emerges from the complainant's evidence that she did not specify the particular gold ornaments allegedly given either at the time of marriage or subsequently entrusted to the accused persons. Notably, it is admitted that the complainant has already recovered and taken back all the articles except the alleged gold ornaments.

22. In the absence of any evidence to establish that the accused dishonestly misappropriated or converted the allegedly entrusted ornaments for their own use, the essential ingredients of the offence of criminal breach of trust under Section 406 IPC remain unproved. Mere assertions or generalized claims, without specific details and reliable corroboration, cannot suffice to sustain a conviction under Section 406 IPC. The prosecution has thus failed to establish the crucial element of dishonest misappropriation necessary for the offence, rendering the charge legally untenable.

23. In the circumstances detailed above, and particularly in light of the complainant's own admissions regarding the nature and ownership

of the articles allegedly entrusted at the time of marriage, coupled with the absence of any convincing or corroborative evidence, this Court finds that the prosecution has failed to discharge the burden of proof required under Section 406 of the Indian Penal Code. The essential ingredients of criminal breach of trust, namely the dishonest misappropriation or conversion of property entrusted to the accused, remain wholly unestablished on the record. Given these material deficiencies, the allegations leveled against the accused persons cannot be said to have been proved beyond reasonable doubt. Consequently, the charge of criminal breach of trust under Section 406 IPC cannot be sustained, and no judicial interference is warranted to disturb the acquittal of the accused on this count. The prosecution case, in the absence of credible, specific, and corroborated evidence, fails to meet the threshold necessary for conviction.

24. It is a well-settled principle of law that a judgment of acquittal, pronounced by a learned Trial Court after a careful and thorough appreciation of the evidence brought on record, carries with it a presumption of innocence in favour of the accused. Such presumption is further fortified and strengthened by the acquittal itself. An appellate court is ordinarily enjoined to respect the findings of the trial court and should refrain from interference merely on the basis that a different view might be possible from the evidence adduced. Interference with an order of acquittal is permissible only in exceptional circumstances. It becomes

necessary where it is clearly demonstrated that the findings of the Trial Court are perverse, manifestly erroneous, or wholly contrary to the evidence on record. Unless it can be shown that the Trial Court misdirected itself in law, ignored material evidence, or reached a conclusion which no reasonable person could have arrived at, the order of acquittal must remain undisturbed. The appellate court must exercise extreme caution and restraint in such matters, ensuring that the liberty of an individual is not curtailed on mere speculation or divergent interpretations of the evidence. Interference is thus justified only when the prosecution establishes that there has been grave illegality, serious misappreciation of evidence, or perversity in the reasoning of the Trial Court. In the absence of such compelling reasons, the acquittal recorded by the learned Trial Court deserves to be sustained, and no routine or casual interference is warranted.

25. It is profitable to quote the observations of the Hon'ble Apex Court in case of **V.N. Ratheesh vs. State of Kerala**¹ wherein Hon'ble Apex Court held at paragraph 5 interalia that:

“There is no embargo on the appellate Court reviewing the evidence upon which an order of acquittal is based. Generally, the order of acquittal shall not be interfered with because the presumption of innocence of the accused is further strengthened by acquittal. The golden thread which runs through the web of administration of justice in criminal cases

¹ **(2006) 10 SCC 617**

is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. The paramount consideration of the Court is to ensure that miscarriage of justice is prevented. A miscarriage of justice which may arise from acquittal of the guilty is no less than from the conviction of an innocent. In a case where admissible evidence is ignored, a duty is cast upon the appellate Court to re-appreciate the evidence where the accused has been acquitted, for the purpose of ascertaining as to whether any of the accused really committed any offence or not. [See Bhagwan Singh and Ors. v. State of Madhya Pradesh (2002 (2) Supreme 567)]. The principle to be followed by appellate Court considering the appeal against the judgment of acquittal is to interfere only when there are compelling and substantial reasons for doing so. If the impugned judgment is clearly unreasonable and relevant and convincing materials have been unjustifiably eliminated in the process, it is a compelling reason for interference. These aspects were highlighted by this Court in Shivaji Sahabrao Bobade and Anr. v. State of Maharashtra (AIR 1973 SC 2622), Ramesh Babulal Doshi v. State of Gujarat (1996 (4) Supreme 167), Jaswant Singh v.

State of Haryana (2000 (3) Supreme 320), Raj Kishore Jha v. State of Bihar and Ors. (2003 (7) Supreme 152), State of Punjab v. Karnail Singh (2003 (5) Supreme 508 and State of Punjab v. Pohla Singh and Anr. (2003 (7) Supreme 17)”

26. In the aforementioned report, the Hon'ble Supreme Court has elucidated and reaffirmed the scope and jurisdiction of an appellate court in matters concerning acquittal. It was observed that, as a general principle, the order of acquittal rendered by a trial court should not ordinarily be disturbed on appeal. This is grounded in the fundamental principle that an acquitted person enjoys the benefit of the presumption of innocence, which is further fortified by the acquittal itself.

27. The Apex Court made it clear that interference with a judgment of acquittal is warranted only in exceptional circumstances where compelling and substantial reasons exist to justify such intervention. It was further emphasized that appellate courts must exercise caution and restraint, ensuring that the liberty of an individual is not curtailed lightly. The Court held that interference may be considered when the impugned judgment of acquittal is manifestly unreasonable or perverse, or when relevant, material, and convincing evidence has been unjustifiably ignored or excluded in the trial process. Only in such circumstances, where there exists a demonstrable miscarriage of justice due to oversight or improper appreciation of evidence, can an appellate court justifiably intervene and set aside an acquittal. Thus, the judgment

reinforces the delicate balance between upholding the presumption of innocence and ensuring that justice is not subverted through the misapplication or neglect of crucial evidence by the trial court.

28. In this record the appellant complainant fails to demonstrate any manifest illegality or irregularity for which the impugned judgment and order of acquittal passed by the learned Trial Court may be interfered with when there is a limited scope to appreciate the evidence in the appeal unless it is found to be illegal or perverse.

29. Taking into account the entire factual matrix and the reasoning detailed above, it is my considered conclusion that the impugned acquittal stands unimpeachable and requires no intervention.

30. Accordingly, the instant appeal be and the same is hereby **dismissed**.

31. The impugned judgment and order of acquittal dated 27.03.2001 passed by the learned Additional Chief Judicial Magistrate, Alipore in T.R. No. 387/1988 is hereby affirmed.

32. Let a copy of this order along with TCR be sent down to the learned Trial Court immediately.

33. Urgent Photostat certified copy of this order, if applied for be given to the parties on payment of requisite fees.

(Prasenjit Biswas, J.)