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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.247**CRR-1587-2023 (O&M)****Date of decision : 21.01.2025**

Narendra Jeet Kaur

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. J.S. Ghumman, Advocate, for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

KIRTI SINGH, J. (Oral)

1. The present revision petition has been preferred against judgment dated 16.03.2023 passed by the learned Addl. Sessions Judge, Jalandhar, whereby appeal preferred by the petitioner against the order of acquittal was dismissed.

2. Succinctly put, the prosecution version of the case is that marriage between the petitioner and respondent No.1 was solemnized on 11.01.2009 and many valuables, including gold ornaments and Santro car were given in marriage as per the demand of the in-laws. However, the petitioner was harassed by them for bringing less dowry and was beaten and turned out of the matrimonial home on 05.06.2009. Later a compromise was effected as per which the petitioner and respondent started living separately from the in-laws. On 07.05.2010, when the couple had gone to the hospital with their kid, the petitioner's parents came to meet them there. When the petitioner asked the respondents if she could accompany her parents he

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became annoyed and pushed her. When her father intervened, the respondent started beating him and gave fist blows.

3. Learned counsel for the petitioner would submit that the trial Court has wrongly dismissed the appeal. The observation has been wrongly recorded that the entrustment and mis-appropriate of dowry could not be proved by the petitioner, when the dowry articles had already been handed over to the respondent's family. Offence of cruelty is also clearly established because the petitioner was thrown out of matrimonial home after giving beatings, but the MLR was wrongly ignored by the learned trial Court on account of absence of independent corroboration.

4. *Per contra*, learned State counsel submits that a second compromise with respect to return gold ornaments was executed again between the parties and the same has been proved on record. Even the charges under Section 498-A IPC could not be proved. There is no merit in the present appeal and thus, the same is liable to be dismissed.

5. After having heard the case and perused the record, it comes out that in the present case, a compromise was effected between the parties as per which, the gold ornaments of the applicant were either returned or were in the possession of the petitioner herself. Since the execution of the second compromise had not been agitated in the complaint, the same cannot be disregarded as being not genuine. Moreso, it is clear from the deposition of the petitioner that the allegations of beatings, cruelty and maltreatment were general in nature and the MLR provided on record is of no avail to the prosecution because it has not been claimed as one of the assailants by the petitioner. As far as the incident of beatings on 05.06.2009 is concerned,

there is no MLR to corroborates the same and admittedly, no witnesses from

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the locality have been examined, casting a shadow of doubt on the prosecution case. Though, undisputedly, the petitioner is the best witness of her case, but absence of any corroboration to her testimony, as also the absence of any complaint prior to moving of the instant one in this case, is a relevant fact required to be taken into consideration.

6. Following the observations made by its Constitution Bench in ***M.G. Agarwal v. State of Maharashtra (1963) 2 SCR 405***, the Supreme Court in ***Ghurey Lal v. State of UP (2008) 10 SCC 450*** laid down the aforesaid principles :

"69. The following principles emerge from cases

1. The Appellate Court may review the evidence in appeals against acquittal under sections 378 and 386 of the Criminal Procedure Code, 1973. Its power of reviewing evidence is wide and the appellate court can re-appreciate the entire evidence on record. It can review the trial court's conclusion with respect to both facts and law.

2. The accused is presumed innocent until proven guilty. The accused possessed this presumption when he was before the trial court. The trial court's acquittal bolsters the presumption that he is innocent.

3. Due or proper weight and consideration must be given to the trial court's decision. This is especially true when a witness' credibility is at issue. It is not enough for the High Court to take a different view of the evidence. There must also be substantial and compelling reasons for holding that the trial court was wrong.

70. In light of the above, the High Court and other appellate courts should follow the well-settled principles crystallized by number of judgments if it is going to overrule or otherwise disturb the trial court's acquittal:

1. The appellate court may only overrule or otherwise disturb the trial court's acquittal if it has "very substantial and compelling reasons" for doing so.

A number of instances arise in which the appellate court would have "very substantial and compelling reasons" to discard the trial court's decision. "Very substantial and compelling reasons" exist when:

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- i. The trial court's conclusion with regard to the facts is palpably wrong;*
 - ii. The trial court's decision was based on an erroneous view of law;*
 - iii. The trial court's judgment is likely to result in "grave miscarriage of justice";*
 - iv. The entire approach of the trial court in dealing with the evidence was patently illegal;*
 - v. The trial court's judgment was manifestly unjust and unreasonable;*
 - vi. The trial court has ignored the evidence or misread the material evidence or has ignored material documents like dying declarations/report of the ballistic expert, etc.*
 - vii. This list is intended to be illustrative, not exhaustive.*
2. *The Appellate Court must always give proper weight and consideration to the findings of the trial court.*
3. *If two reasonable views can be reached - one that leads to acquittal, the other to conviction-the High Courts/ Appellate Courts must rule in favour of the accused."*
7. Having perused the facts of the case as also the findings recorded by trial Court, this Court is of the considered opinion that in the case in hand, there is no infirmity or irregularity in the impugned order whereby trial Court has acquitted the respondent. The same being speaking, well reasoned and based upon correct appreciation of facts, applicable law & judicial precedents, needs no interference. As a corollary, the present revision petition stands dismissed.

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

(KIRTI SINGH)
JUDGE

21.01.2025
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No