



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

213

CWP-16363-2019

Date of Decision: 01.03.2025

Onkar Singh

.....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. K.B. Raheja, Advocate,
for the petitioner (appearing through video conferencing).

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226 and 227 of the Constitution of India is seeking modification of orders dated 01.03.2019 (Annexure P-8) and 23.04.2019 (Annexure P-9) to the extent his three years service has been forfeited.

2. The petitioner joined Punjab Police as Constable on 28.05.1990. His nephew (sister's son) solemnized marriage with Narinder Kaur on 09.09.2015. The matrimonial discord took place in the relations of his nephew and his wife. Nephew's wife lodged FIR against her husband as well as distant relatives including petitioner. He came to be convicted by CJM, Ferozepur vide judgment dated 09.09.2015. On account of conviction, the respondent vide order dated 19.08.2016 dismissed him from service in terms of Rule 16.2 of Punjab Police Rules, 1934 (in short 'PPR'). He preferred appeal before Appellate Court against judgment of conviction dated 09.09.2015. The Appellate Court vide judgment dated 11.10.2018 acquitted him. The acquittal was honourable. It is apt to notice that during the pendency of appeal, judgment



preferred appeal before Appellate Authority against order of dismissal from service. The Appellate Authority by impugned order, ordered to reinstate him in service, however, forfeited his three years' service. He unsuccessfully preferred revision before Director General of Police.

3. Mr. K.B. Raheja, learned counsel for the petitioner submits that petitioner was honourably acquitted and he was implicated in an offence with which he was not even remotely connected. As per Rule 16.2(2) read with Rule 16.3 of PPR, the punishment awarded by respondent needs to be set aside.

4. Mr. Aman Dhir, DAG, Punjab, on being confronted with judgment of acquittal, expressed his inability to controvert the fact that there was honourable acquittal. The petitioner was implicated by wife of his nephew alleging commission of offence under Section 498A IPC.

5. I have heard the arguments and perused the record.

6. Proviso to sub-rule 2 of Rule 16.2 of Punjab Police Rules, mandates that in case conviction of a police officer is set aside in appeal or revision, the officer empowered to appoint him shall review his case keeping in view the instructions issued by government in this behalf. Rule 16.3 of Punjab Police Rules, 1934 provides that if a police officer is acquitted by criminal Court, he shall not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case. Rules 16.2 and 16.3 of Punjab Police Rules are reproduced as below:

“16.2. Dismissal-(1) Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. In making such an award regard shall be had to the length of service of the offender and his claim to pension.



(2) If the conduct of an enrolled police officer leads to his conviction on a criminal charge and he is sentenced to imprisonment, he shall be dismissed: Provided that a punishing authority may, in an exceptional case involving manifestly extenuating circumstances for reasons to be recorded and with the prior approval of the next higher authority impose any punishment other than that of dismissal:

Provided further that in case the conviction of an enrolled police officer is set aside in appeal or revision, the officer empowered to appoint him shall review his case keeping in view the instructions issued by the Government from time to time in this behalf.

(3) When a police officer is convicted judicially and dismissed or dismissed as a result of a departmental enquiry, in consequence of corrupt practices, the conviction and dismissal and its cause shall be published in the Police Gazette. In other cases of dismissal when it is desired to ensure that the officer dismissed shall not be reemployed elsewhere, a full descriptive roll, with particulars of the punishments, shall be sent for publication in the Police Gazette.

16.3. Action following on a judicial acquittal. – (1) When a Police Officer has been tried and acquitted by a criminal court he shall be not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case, whether actually led or not, unless-

- (a) the criminal charge has failed on technical grounds; or*
- (b) in the opinion of the Court or of the Superintendent of Police, the prosecution witnesses have been won over; or*
- (c) the Court has held in its judgment that an offence was actually committed and that suspicion rests upon the police officer concerned; or*



(d) the evidence cited in the criminal case discloses facts unconnected with the charge before the court which justify departmental proceedings on a different charge; or

(e) additional evidence admissible under rule 16.25(1) in departmental proceedings is available.

(2) Departmental proceedings admissible under sub-rule (1) may be instituted against Lower Subordinates by the order of the Superintendent of Police but may be taken against Upper Subordinates only with the sanction of Deputy Inspector General of Police, and a police officer against whom such action is admissible shall not be deemed to have been honorably acquitted for the purpose of rule 7.3 of the Civil Services Rules (Punjab), Volume I, Part I.”

7. The acquittal from criminal proceedings does not automatically entitle immunity from departmental action. A police officer may be subjected departmental punishment despite acquittal in criminal proceedings as per exceptions carved out in Rule 16.3 of Punjab Police Rules, 1934. If acquittal is not based upon exceptions carved out in Rule 16.3 of Punjab Police Rules, 1934, a police officer is entitled to immunity from departmental action.

8. In the case in hand, the petitioner is the uncle of the husband of Narinder Kaur. Learned Additional Sessions Judge observed that there is no ground of causing cruelty by petitioner. Moreover, the prosecution failed to prove the allegation against the petitioner. The relevant extracts of the judgment of trial Court are reproduced as below:-

"33. After hearing both the sides and going through the evidence referred above, it is found that Narinder Kaur daughter of the revisionist Sampuran Singh (since dead) was married with appellant No. 1 Harjinder Singh on 29.08.2007. At the time of the marriage, sufficient dowry was given, which is clear from the evidence of PW6 to PW11 from whom dowry articles in the form of gold, furniture and



other items were purchased. The evidence further shows that after the marriage, a demand for more dowry was raised. At the time of the marriage, a motor cycle make Hero Honda was given but a demand for car was raised. The evidence further shows that there was election in the village for the post of Sarpanch for which a demand of Rs. 40,000/- was raised and the said amount was paid by revisionist Sampuran Singh to appellants Harjinder Singh and Surat Singh. The evidence further shows that on 22.02.2009 Narinder Kaur was maltreated and beaten, who informed about this to her sister Shavinder Kaur, who reached on spot, where she was also maltreated. Her Statement as PW4 shows that appellant Surat Singh gave a dang blow on her left hand and she allegedly received a fracture. At this place, it would be relevant to note that there is no medical report regarding the alleged injury on the person of Shavinder Kaur nor the matter was reported to the police.

34. From the evidence, it is found that the allegations against appellants Vidya Devi, Sonu alias Soni and Onkar Singh are general in nature. The main allegations are against appellant Harjinder Singh and his father Surat Singh. Vidya Devi is the mother, Sonu alias Soni is the sister and Onkar Singh is the uncle of appellant Harjinder Singh, husband of victim Narinder Kaur. It is well settled that any article given to the relatives of the husband at the time of the marriage is ceremonial gift and does not constitute as entrustment of dowry. As pointed out above, Onkar Singh is the uncle of Harjinder Singh and there was no question of raising any demand or entrustment of any dowry article to him. So, there is no question of causing any cruelty to Narinder Kaur relating to demand of dowry by Onkar Singh. The evidence of DW1 shows that on 29.08.2007 i.e. the date of marriage of Narinder Kaur with Harjinder Singh and on 22.02.2009 when the alleged incident of beating to Shavinder



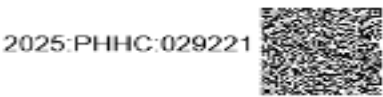
Kaur, sister of the victim took place, appellant Onkar Singh was on duty in Training Center, Bahadurgarh. He was not on leave on the said dates. So the case of the prosecution against Onkar Singh is highly doubtful. It was held in Jasmin and another Vs. State of Haryana, 2008(4) RCR (Criminal), 228 that where no specific allegations were levelled against the brother and sister and the only assertion was that Instridhan/dowry articles were entrusted to all the accused in the presence of relations, respectables and neighbours, no offence under section 406 of IPC was made out as there was tendency of roping in every member of family of the husband in such type of matrimonial criminal litigation.

35. *That aforesaid citation is fully applicable to the facts of the present case.*

36. *In view of the observations recorded above, the case of the prosecution against appellants Harjinder Singh and Surat Singh is found to be fully proved for having committed offences, punishable under section 406/498-A of IPC. However, the case of the prosecution against the appellants namely Vidya Devi, Sonu alias Soni and Onkar Singh is not proved beyond shadow of doubt.*

37. *The sentence imposed upon the aforesaid appellants has already been narrated in para No. 1 of this judgment, which as per the facts and circumstances of the case is sufficient to meet the ends of justice.*

38. *In the wake of above discussion, the appeal is accepted qua appellants Vidya Devi, Sonu alias Soni and Onkar Singh. The judgment of conviction and order of sentence dated 09.09.2015 qua these appellants are set aside and they are acquitted of the charges framed against them on account of benefit of doubt. The amount of fine, if deposited by the said appellants, be refunded to them in accordance with rules. However, the appeal qua appellants Harjinder Singh and Surat Singh and the revision petition preferred by*



revisionist Sampuran Singh are dismissed. The impugned order of sentence dated 09.09.2015 is modified to the extent that both the sentences awarded to appellants Harjinder Singh and Surat Singh shall run concurrently.

Appellants Harjinder Singh and Surat Singh, who are on bail, be taken in custody. Conviction warrants of these appellants be prepared so that they be sent to jail to serve out their sentence of imprisonment. The period of detention already undergone by the accused/appellant during investigation or trial shall be set off against the term of imprisonment imposed upon him. A copy of the judgment as attested by Reader of this court be placed in the file of the connected revision petition titled as Sampuran Singh Vs Harjinder Singh. The lower court record along with a copy of this judgment be sent back to the quarter concerned. Appeal file be consigned to record room."

9. In the wake of above discussion and findings, the impugned orders are hereby set aside.

10. The respondent would consider claim of petitioner *qua* back wages in terms of judgment dated 05.06.2024 of this Court in **CWP-7776-2024, Iqbal Singh vs. State of Punjab and others**. The needful shall be done within three months from today.

11 Allowed in above terms.

01.03.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	Yes