



CRM-A-1946-MA-2017(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-A-1946-MA-2017(O&M)

Date of decision: 17.03.2025

SHAMINDER KAUR

...APPLICANT

V/S

STATE OF PUNJAB AND ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KIRTI SINGH

Present: Mr. Prabha, Advocate for
Mr. Amit Arora, Advocate
for the applicant.

Mr. R.S.Thind, DAG Punjab.

Mr. Sanjiv Kumar Aggarwal, Advocate for
Mr. Ojas Bansal, Advocate for respondent No.3.

KIRTI SINGH, J. (ORAL)

The present application under Section 378(4) Cr.P.C. for leave to appeal has been preferred against judgment dated 14.06.2017 passed by the learned Sub Divisional Judicial Magistrate, Khadur Sahib, Tarn Taran, whereby respondents No.2 to 4 were acquitted in a complaint case under section 406, 498A and 506 of IPC.

2. Brief factual matrix is that marriage of the applicant was solemnized with respondent No.2 on 01.04.2012, according to Sikh rites at village Fatehabad, District Tarn Taran. At the time of marriage, the parents of the applicant gave sufficient dowry, including gold jewelry, a motorcycle, electronic appliances, and household items to her in-laws, i.e. the private respondents herein. However, after marriage, the respondents No.2 to 4 allegedly started taunting and harassing the applicant for bringing insufficient dowry and pressured her for more. On 15.05.2012, private respondents beat her and threw her out of the matrimonial



home. In June 2012, a panchayat was convened to settle the matter but to no avail. An application was moved before SSP Tarn Taran, whereafter, a compromise was reached on 06.10.2012, and the applicant was rehabilitated in her matrimonial home. However, in 2013, upon the arrival of respondents No.3 and 4 from Greece, the applicant was once again subjected to harassment and torture for dowry, and in July 2013, she was sent back to her parental home by respondents No.2 to 4, who even refused to return the dowry articles.

3. Learned counsel for the applicant submits that the learned Appellate Court has erred in not considering the evidence that was led by the prosecution witnesses as also those placed on record and thus, the impugned acquittal order is liable to be set aside.

4. Learned State counsel and counsel for the respondents No.2 to 4 have vehemently contended that the acquittal order was passed by the learned Sub Divisional Judicial Magistrate, Khadur Sahib, Tarn Taran, after thorough examination and due consideration of the legal issue involved as also the facts and circumstances of the case.

5. Heard.

6. The allegations levelled against the private respondents herein are of cruelty on account of demand for dowry, as also misappropriation of the dowry articles/istridhan of the applicant. However, the applicant has failed to prove the charges of the alleged offences beyond reasonable doubt. A perusal of the case file reveals that respondent No.2 was granted divorce from the applicant on the ground of cruelty and desertion, which, when challenged in appeal was upheld. The testimonies of complainant witness also lack specification of the allegations so levelled and as such, do not inspire much confidence. Though, undisputedly the applicant is the best witness of her case, but the absence of any substantive



corroboration to her testimony, is a relevant fact required to be taken into consideration. Furthermore, the bills of jewelry on which reliance is sought to be placed, do not bear the name of signature of the applicant or any of her family members. There is also nothing on record to corroborate the allegation of misappropriation of the dowry articles. In addition, no specific injury is attributed as having being inflicted by the private respondents upon the complainant, nor any medical record, though, not *sine qua non*, to corroborate the veracity of the allegations has been provided. It is also an admitted fact that the list of dowry articles was prepared at the time of filing of the complaint and not at the time of marriage. Thus, the applicant has not been able to establish any grounds to point out any illegality in the acquittal order passed by the trial Court.

7. 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:

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."

8. 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 dated 14.06.2017, whereby trial Court has acquitted the respondents No.2 to 4. The same being speaking, well



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reasoned and based upon correct appreciation of facts, applicable law & judicial precedents, needs no interference. As a corollary, leave to appeal is declined.

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

17.03.2025

Kavita

(KIRTI SINGH)
JUDGE

- (i) Whether speaking/reasoned
- (ii) Whether reportable

Yes/No
Yes/No