
(2017) 05 RAJ CK 0089
In the Rajasthan High Court
Case No : 14 of 2015

Smt. Chandrakala

APPELLANT

Vs

State of Rajasthan and another

RESPONDENT

Date of Decision : 15-05-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 397](#), [Section 401](#), [Section 313](#), [Section 156\(3\)](#) - Calling for records to exercise powers of revision - High Co

Citation : (2017) 05 RAJ CK 0089

Hon'ble Judges : P.K. Lohra

Bench : SINGLE BENCH

Advocate : J.S. Choudhary, Pradeep Choudhary, L.R. Upadhyay, Sunil Mehta

Judgement

1. Petitioner-complainant feeling aggrieved by judgment dated 21.11.2014, passed by Addl. Sessions Judge No.2, Bikaner (for short, "learned appellate Court"), whereby learned appellate Court confirmed the verdict of acquittal dated 04.12.2006, passed by learned Judicial Magistrate (First Class) No.2, Bikaner (for short, "learned trial Court"), has preferred this revision petition under Section 397/401 Cr.P.C. Initially, the learned trial Court, vide its judgment dated 04.12.2006, acquitted accused-respondent for offence under Sections 498A and 406 IPC giving him benefit of doubt. Subsequently, the learned appellate Court, while concurring with the findings and conclusions of the learned trial Court, affirmed the same.

2. In brief, facts of the case are that petitioner-complainant filed a complaint before Judicial Magistrate, First Class, Bikaner stating therein that she was married with second respondent Nandlal on 20.11.1989 and at the time of marriage sufficient dowry was given by her family. It is alleged that after marriage, accused-respondent was selected in police service as Sub Inspector and thereafter he started subjecting the petitioner to physical and mental cruelty. An allegation for demand of dowry is also made in the complaint. It is also

alleged in the complaint that while the accused was posted at Chhatargarh, he was suspended and at that time also he raised a demand of Rs.50,000/-. The accused ultimately turned her out from the house and refused to return dowry articles.

3. The learned Magistrate sent the complaint to concerned police station under Section 156(3) Cr.P.C. and the police registering FIR No.294/1994 started investigation. Accused-respondent was prosecuted for offence under Sections 498-A and 406 IPC by filing charge-sheet. Learned trial Court framed charge against him for aforesaid offence and on denial, he was put on trial. In order to prove charge against accused-respondent, prosecution examined eleven witnesses and got exhibited thirty-four documents. Subsequently, statement of accused-respondent was recorded under Section 313 Cr.P.C and, in defence, he examined three witnesses and exhibited nineteen documents. Learned trial Court, then, proceeded to hear final arguments and by its verdict dated 04.12.2006 acquitted the accused-respondent extending him benefit of doubt.

4. Feeling dismayed with the verdict of acquittal, State approached learned appellate Court and the learned appellate Court vide order dated 11.06.2008 remanded the matter back to learned trial Court to decide the matter afresh. Being aggrieved with the order dated 11.06.2008, accused-respondent filed a revision petition before this Hon"ble Court and the Hon"ble Court vide order dated 12.05.2011 rejected the same on the ground of limitation.

5. Being aggrieved with the order dated 12.05.2011 passed by this Court, accused-respondent filed a Criminal Appeal before the Apex Court and the Apex Court vide order dated 07.03.2014 allowed the appeal and quashed and set aside the order dated 11.06.2008 passed by the appellate Court and order dated 12.05.2011 passed by this Court and remitted the matter back to appellate Court for deciding the appeal filed by the respondent-State in accordance with law after independently appreciating the evidence and the findings recorded by the learned trial Court.

6. On remand, the appellate Court made endeavour to appreciate the evidence available on record. After scrutinizing the entire evidence and other materials available on record, the learned appellate Court fully concurred with the findings and conclusions of learned trial Court, which entailed dismissal of the appeal vide judgment dated 21.11.2014. It is, in that background, petitioner has invoked revisional jurisdiction of this Court.

7. I have heard learned counsel for the parties, perused the impugned judgments and thoroughly scanned the entire record.

8. Upon examining the impugned judgment of learned trial Court, it is abundantly clear that it has made sincere endeavour to appreciate the evidence while recording its finding favouring the accused-respondent for extending him benefit of doubt. It is trite that learned appellate Court also examined the entire evidence with bird's eye view for determining alleged culpability of the accused-

respondent for aforesaid offence and concluded in clear and unequivocal terms that learned trial Court has rightly exercised its discretion in extending the benefit of doubt.

9. While exercising revisional jurisdiction, court is only to see procedural error, irregularity and non-appreciating and non-application of law. Re-appreciation of evidence is not desirable under the revisional jurisdiction. It is also trite that this Court in revision cannot embark on sufficiency of materials before the court below for recording its satisfaction. As both the Courts below have examined the matter threadbare in its entirety and have arrived at a finding concurrently which is based on sound appreciation of evidence, the same is not liable to be tinkered with in exercise of revisional jurisdiction. In my considered opinion, revisional jurisdiction to interfere with the verdict of acquittal is required to be exercised with utmost caution and circumspection.

10. Legal position is no more res-integra that against a verdict of acquittal, revisional jurisdiction is to be exercised only in exceptional cases where the interests of public justice require interference for correction of a manifest illegality or prevention of gross miscarriage of justice. Reliance, in this behalf, can profitably be made to a decision of Supreme Court in Kaptan Singh v. State of Madhya Pradesh [1997 4 Supreme 211].

11. The Supreme Court, in yet another judgment rendered in K. Ramachandran v. V.N. Rajan & Anr. [(2009) 14 SCC 569], examined the scope of judicial review under Section 401 Cr.P.C. against the verdict of acquittal, on revision by private complainant, and held: "In this very judgment in Akalu Ahri Case though in para 10, this Court did not generally approve of the appreciation of evidence by the trial court Judge and held it to be not perfect or free from flaw and further observed "the court of appeal may be justified in disagreeing with the conclusion, but it does not follow that on revision by a private complainant, the High Court is not entitled to re-appreciate the evidence for itself as if it is acting as a court of appeal and then order a retrial".

The situation, as we will show further, is identical in the present case.

12. In a later judgment, the Supreme Court has culled out certain instances for exercising revisional jurisdiction at the instance of private complainant against a verdict of acquittal. In case of Sheetala Prasad v. Sri Kant & Anr. [(2010) 2 SCC 190], following guidelines are issued by the Supreme Court: "(1) where the trial court has wrongly shut out evidence which the prosecution wished to produce;

(2) where the admissible evidence is wrongly brushed aside as inadmissible;

(3) where the trial court has no jurisdiction to try the case and has still acquitted the accused;

(4) where the material evidence has been overlooked either by the trial court or the appellate court or the order is passed by considering irrelevant evidence; and

(5) where the acquittal is based on the compounding of the offence which is invalid under the law."

13. In view of settled law and guidelines enumerated herein above, the case in hand is not covered within the four corners of any of the guidelines, therefore, it is not worthwhile to entertain this petition.

14. Accordingly, I feel dissuaded to exercise revisional jurisdiction in the matter to interfere with the verdict of acquittal passed by learned trial Court and affirmed by learned appellate Court. Resultantly, the petition fails and same is, hereby, dismissed.

Revision dismissed.