

Sumer Singh Vs. Vidhya Devi and ors.

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Court : Rajasthan

Decided On : Jan-12-2009

Reported in : RLW2009(1)Raj822

Judge : Mahesh Chandra Sharma, J.

Appellant : Sumer Singh

Respondent : Vidhya Devi and ors.

Disposition : Petition dismissed

Judgement :

Mahesh Chandra Sharma, J.

1. The petitioner has preferred instant revision petition against the judgment of acquittal dated 31.7.2008 Passed by Addl. Sessions Judge (Fast Track) Behror District Alwar (for short 'the trial Court') passed in Sessions Case No. 17/2008 by which he acquitted the accused respondents for the offence under Sections 498A, 406 and 306 IPC by giving them benefit of doubt.

2. Brief facts of the case are that an FIR bearing No. 241/2006 at P.S. Shahjahanpur District Alwar (Ex. P. 1) was lodged by the complainant petitioner for the offence under Sections 498A, 406 and 306 IPC.

3. The police after investigation submitted charge-sheet against the accused respondents for the aforesaid offences.
4. The trial Court after hearing framed charges against the accused respondents, who did not plead guilty and claimed to be tried In the matter.
5. The prosecution in support of its case produced as many as 18 witnesses and certain documents were got exhibited.
6. Thereafter, the statements of the accused respondents under Section 313 Cr.P.C. were recorded.
7. The trial Court after hearing both the parties acquitted the accused respondents from all the offences vide judgment dated '31.7.2008 by giving them benefit of doubt.
8. The complainant petitioner aggrieved with the impugned judgment of acquittal dated 31.7.2008 passed by the trial Court, has preferred instant petition before this Court.
9. I have heard both the counsel appearing for the respective parties and carefully gone through the entire material available to me.
10. Mr. S.S. Sunda, counsel appearing for Mr. Tripurari Sharma, submits that trial Court has not properly considered the evidence available on record and only on some minor contradictions and omissions discarded the testimony of the witnesses. The trial Court has failed to consider this aspect of the case that first of all accused Raj Karan tortured Priyanka for want of dowry and thereafter he gave some poisonous to Kamlesh forcibly due to which she died. Thus, Impugned judgment dated 31.7.2008 passed by the trial Court be quashed and set-aside.
11. On the other hand, Ms. Manju Dave, Public Prosecutor assisted by Mr. R.K. Mathur, counsel for accused respondents submit that the trial Court has rightly acquitted the accused respondents for the aforementioned offences and It has not committed any illegality and irregularity in acquitting them.

12. The Court Attention was' drawn on the following judgment of the Hon'ble Supreme Court:

Umrao v. State of Harayana and Ors. : 2006 CriLJ2798 in which the Lordships of the Supreme Court has observed in para 26 that 'it is now well settled that If two views are possible, the appellate Court should not interfere with the judgment of acquittal passed by the court below.

13. Looking to the evidence just discussed above, it can easily be said that the prosecution has not been able to prove its case against the accused respondent for the offence for which he has been acquitted. I have no reason to dissent from the finding of acquittal recorded by the trial Court as the same appears to be reasonable and plausible in the facts and circumstances of the case.

14. It may be stated that in revision against acquittal though powers of the High Court to reassess the evidence and to reach its own conclusions are as extensive as in revision against an order of conviction, yet as a rule of prudence, it should always give proper weight age and consideration to the views of the trial judge as to the credibility of the witnesses; the presumption of innocence in favour of the accused, right of the accused to the benefit of any doubt and thus, High Court should not ordinarily disturb the order of acquittal. Therefore, this Court does not want to interfere with the impugned judgment passed by the appellate court and this criminal revision is liable to be dismissed.

In the result, this revision petition is devoid of merits and stands rejected.

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