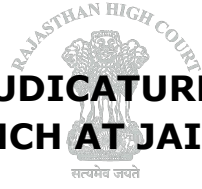




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No.1469/2013

1. Nishi Mishra D/o Shri Hari Shankar Mishra, R/o Mishra Vila 4, Teachers Colony, DCM, Ajmer Road, Jaipur.
2. Sweety Mishra D/o Shri Hari Shankar Mishra, R/o Mishra Vila 4, Teachers Colony, DCM, Ajmer Road, Jaipur.

-----Petitioners

Versus

State Of Rajasthan Through PP

-----Respondent



For Petitioner(s) : Ms. Sweety Mishra, petitioner no.2
present in person
For Respondent(s) : Mr. Jitendra Singh Rathore, PP
with Ms. Neha Goyal

JUSTICE ANOOP KUMAR DHAND

Order

17/04/2026

Reportable

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned judgment dated 06.08.2012 passed by the Court of Judicial Magistrate, First Class, Sambhar Lake, Jaipur in Criminal Case No.127/2006, by which the petitioners along with the co-accused persons have been acquitted of the charges punishable under Sections 498A, 406, 420, 384 and 120B IPC and benefit of doubt was granted to the petitioners only, whereas the rest of the accused persons namely Smt. Munni Devi, Smt. Meenu Mishra and Manish Mishra have been acquitted of the above offences on the basis of compromise arrived at between the parties.



2. The petitioner No.2 is present in person. She submits that she and the petitioner No.1 are preparing for competitive examinations and the aforesaid judgment dated 06.08.2012 will come in their way for the purpose of getting recruitment as the terminology "benefit of doubt", mentioned in the impugned judgment, will adversely affecting their future. She submits that the petitioners being sisters-in-law of the complainant have no concern whatsoever with the domestic affairs of the husband of the complainant and parents-in-law. Hence, under these circumstances, they submitted a Revision Petition before the Revisional Court i.e. the Court of Additional Sessions Judge, Sambhar Lake, District Jaipur for deletion of the words "benefit of doubt" from the impugned judgment dated 06.08.2012. She further submits that the aforesaid words "benefit of doubt" have been deleted, but a new terminology has been added i.e. the petitioners stand acquitted "in absence of evidence". Counsel submits that the Revisional Court has added the said new terminology without any basis, which was not the case of the petitioners before the Revisional Court, inasmuch as their prayer was simple i.e. for deletion of the words "benefit of doubt", but unnecessarily the words "in absence of evidence" have been added. These words are also causing hindrance in future and career prospects of the petitioners for getting recruitment, hence, under these circumstances, interference of this Court is warranted.

3. Lastly, she argues that once this fact has been established on the record that role of the petitioners is not there in the alleged incident, then instead of granting the benefit of doubt or instead





of passing the judgment in absence of evidence, the judgment of honorable acquittal could have been passed in favour of the petitioners. In support of her contentions, she has placed reliance upon the judgment passed the Madhya Pradesh High Court in the case of **Amarnath Pande vs. State of M.P.** reported in **1988 CRI.L.J. 522** and the judgment passed by the Gauhati High Court in the case of **Pratul Bhattacharjee vs. The State of Assam** reported in **1986 SCC OnLine Gau 61**.

4. Per contra, learned Public Prosecutor opposes the prayer.
5. Heard and considered the submissions made at the Bar and perused the material available on the record.
6. Perusal of the record as well as the impugned judgments passed by the Courts below indicate that a charge-sheet under Sections 498A, 406, 420, 384 and 120B IPC was submitted against the petitioners along with co-accused persons namely Manish Mishra, Smt. Munni Devi and Smt. Meenu Mishra on the basis of a report lodged by one Smt. Manju Sharma, who is wife of Manish Mishra and sister-in-law of the petitioners. Cognizance was taken against the petitioners along with co-accused persons for the above stated offences and during the course of trial, the complainant Smt. Manju Sharma submitted an application for compounding the offences under Sections 406 and 420 IPC in favour of the accused Smt. Munni Devi, Smt. Meenu Mishra and Manish Mishra. The aforesaid compromise was attested and on the basis of the same, they were acquitted of the aforesaid charges. Thereafter, all the above three accused persons along with complainant approached this Court for compounding the rest of the offences and on the basis of the compromise between the





parties, they all were acquitted. However, the trial remained pending against the petitioners for all the above offences and during the course of trial, statements of complainant Smt.Manju Sharma and Pooran Chand were recorded and they could not prove the case of prosecution against the petitioner. Considering the overall facts and circumstances of the case, the judgment was passed and the petitioners were acquitted of all the charges and benefit of doubt has been extended to them.

7. It is a matter of common knowledge that unfortunately matrimonial litigations are rapidly increasing in our country. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society. It is a matter of common experience that most of these complaints are filed in the heat of moment and the relatives of far-relation are also implicated, as accused. It appears that in the instant case also, the petitioners being sister-in-law of the complainant, have been implicated as accused by her along with her husband and his parents. It is somewhat unlikely that the petitioners would have harassed the complainant for any kind of dowry along with their brother and parents as they had nothing to gain by doing so.

Ordinarily, in matrimonial disputes the women is subjected to physical violence only by her husband or his parents and the married or unmarried sister-in-law would not join her brother in demanding dowry from his wife. Admittedly, the petitioners are unmarried sisters-in-law of the complainant and they were preparing for competitive examination, hence, they have been implicated as accused in the instant case.





8. It appears that feeling aggrieved by the aforesaid term "benefit of doubt", the petitioners approached the Revisional Court by way of filing a Revision Petition for deletion of the aforesaid terminology, as the same was affecting their future and career prospects in securing public employment. The Revisional Court accepted the Revision Petition, submitted by the petitioners and deleted the words "benefit of doubt", but a new terminology was added i.e. "in absence of evidence". The aforesaid phraseology/terminology is also affecting the future and career prospects of the petitioners, as argued by the petitioner No.2. This Court finds that if the Revisional Court was of the opinion that there is no evidence against the petitioners, then the Revisional Court could have acquitted the petitioners "honourably" instead of "acquittal in absence of evidence". When no evidence was available on the record against the petitioners, they would have been acquitted honourably by the Trial Court.

9. The concept of "honourable acquittal" has not been defined in the Code of Criminal Procedure (for short, 'Cr.P.C') and this term is quite foreign to Cr.P.C. and also unknown to the Courts of justice.

10. The concept of "honourably acquitted", often becomes hazy. This court on several occasions observed that the expressions "honourable acquittal", "acquittal of blame", "fully acquitted" are unknown to the Criminal Procedure Code, 1973 or the Penal Code, 1860. These phrases are coined in the judicial pronouncements.

11. An honourable acquittal may be one where court comes to a definitive conclusion at the end of the trial upon full-fledged appreciation of evidence that the accused had not committed an





offence for which he was charged. This would stand in sharp contrast against arriving at a finding that because of some lacuna in the prosecution case or in the leading the evidence or on account of non availability of credible evidence, the offender is not convicted by giving him the benefit of doubt. In such eventualities, the yardstick known to the criminal jurisprudence is applied namely that the offence has to be proved beyond reasonable doubt.

12. A simple example would explain the nicety of the distinction between an honourable acquittal and the acquittal other than honourable. In a given case, say a person is charged for committing misappropriation of money. After trying the accused for the offence, if the court comes to a clear conclusion that the person has not committed misappropriation and has not defalcated money, it amounts to a clean chit in respect to the offence. It is suggestive of the factum that the misappropriation was not done. However, if the court holds that charge of misappropriation is not proved on the account of weak prosecution case or weak evidence and therefore it is not possible to conclusively record finding about the commission of offence, the acquittal which may follow in such circumstances cannot be said to be an honourable acquittal.

13. The expressions "honourable acquittal", "acquittal of blame" and "fully exonerated" are quite unknown to Cr.P.C. or Indian Penal Code, but the same are defined and coined by the judicial pronouncements. It is difficult to define exactly what is the meaning of these terms. When the accused is acquitted after full consideration of prosecution evidence and when the prosecution





miserably fails to prove the charges levelled against the accused, it can be said that the accused is "honourably acquitted".

14. In the instant case also, the prosecution has miserably failed to prove the charges levelled against the petitioners on the basis of prosecution evidence led against them, but the Trial Court has given "benefit of doubt", while acquitting them, whereas the Revisional Court has acquitted them "in absence of evidence".

15. Once both the Courts below were of the considered opinion that there was no evidence against the petitioners, then certainly, the judgment of honourable acquittal could have been passed instead of giving the "benefit of doubt" or "in absence of evidence". Both these terminologies would certainly affect future career of the petitioners.

16. Considering the overall facts and circumstances of the case, the instant criminal misc. petition stands allowed. The judgment passed by the Revisional Court i.e. Additional Sessions Judge Sambhar Lake, Jaipur, District Jaipur stands modified. The words "in absence of evidence" used in the concluding and operative part of the said judgment stands expunged from the above part of the judgment and it is hereby ordered that the petitioners stand acquitted honourably.

17. Pending applications, if any, stand disposed of.

(ANOOP KUMAR DHAND),J

KuD/34