

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. Appeal No.116 of 2015****Reserved on: 30.10.2025****Decided on: 27.11.2025**

Vibhuti**..... Appellant****Versus****Saurabh & others****.... Respondents**

Coram**The Hon'ble Mr Justice Rakesh Kainthla, Judge.*****Whether approved for reporting?¹ Yes*****For the Appellant : Mr. Lalit Kumar Shamra,****For the Respondents : Mr. G.R. Palsra, Advocate.**

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 21.01.2025, passed by learned Chief Judicial Magistrate, Mandi, H.P. (learned Trial Court) vide which the respondents (accused before learned Trial Court) were acquitted of the commission of offences punishable under Section 406 read with Section 34 of the Indian Penal Code (IPC). *(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.)*

2. Briefly stated, the facts giving rise to the present appeal are that the complainant filed a complaint before the learned Trial Court against the accused for the commission of offences punishable under Sections 406, 418, 403, read with Section 504 and 506 of IPC. It was asserted that Accused No.1 was the husband of the complainant, and accused No.2 and accused No.3 were her parents-in-law. The marriage between the complainant and the accused No. 1 was dissolved by way of mutual consent on 21.10.2020. Parents and relatives of the complainant had given various articles to her as *stridhan* at the time of her marriage. The accused retained the complainant's *stridhan* even after the dissolution of the marriage. The complainant asked the accused to return her *stridhan*, but they failed to do so. Hence, a complaint was filed before the learned Trial Court for taking action as per the law.

3. Learned Trial Court found sufficient reasons to summon the accused. Learned Trial Court recorded pre-charge evidence and framed the charges against the accused for the commission of an offence punishable under Section 406 read with Section 34 of the IPC, to which they pleaded not guilty and claimed to be tried.

4. No witness was sought to be examined/cross-examined after the framing of charges.

5. The accused, in their statements recorded under Section 313 of Cr. P.C. admitted that the complainant was married to accused Saurabh and their marriage was dissolved by a decree of divorce on 21.10.2010. They denied the rest of the prosecution's case. They claimed that they had not retained the complainant's *stridhan*. The complainant had her jewellery with her, which she used to wear. The witnesses deposed falsely as they were related to the complainant. They did not produce any evidence in their defence.

6. Learned Trial Court held that the complainant and the accused No. 1 had dissolved their marriage by mutual consent pursuant to the settlement between them. Nothing survived after the settlement. The complainant was estopped from proceeding with the complaint. The complainant and her mother failed to produce any bill, receipt or list of ornaments. Statements of the complainant and her witnesses contradicted each other. Hence, the accused were acquitted of the commission of an offence punishable under Section 406 read with Section 34 of the IPC.

7. Being aggrieved by the judgment passed by the learned Trial Court, the complainant has filed the present appeal, asserting that the learned Trial Court erred in acquitting the accused. The complainant and her mother proved that the complainant's *stridhan* was retained by the accused. The complainant issued a legal notice, which was duly served upon the accused, but the accused failed to return the *stridhan*. A decree passed in divorce proceedings was not relevant in the present proceedings. Therefore, it was prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

8. I have heard Mr Lalit Kumar Sharma, learned counsel for the appellant/complainant and Mr G.R. Palsra, learned counsel for the respondents/accused.

9. Mr Lalit Kumar Sharma, learned counsel for the appellant/complainant, submitted that the learned Trial Court erred in holding that the gift of articles could not be believed in the absence of a bill or the list. A newly wedded wife cannot be expected to demand the receipts for the articles given to her, and the view taken by the learned Trial Court that the complainant's case was not believable in the absence of the

receipt is perverse. The wife has absolute right over her *stridhan*, which cannot be retained by her husband or his relatives. The accused failed to return the *stridhan* despite the service of a valid notice of demand. Hence, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside. He relied upon *Maya Gopinathan vs. Anoop S.B. & Anr. :2024 INSC 334*, *Mulakala Malleshwara Rao & Anr. vs. State of Telangana & Anr. 2024: INSC 639*, *Prasad & anr. vs. Greeshma 2025: KER:49786*; and *Fousiya vs. Shamshudheen Pokkadan: 2023/KER/59072* in support of his submission.

10. Mr G.R. Palsra, learned counsel for the respondents/accused, submitted that the parties had settled the dispute amongst themselves and the marriage between the complainant and the accused No.1 was dissolved by a valid decree of divorce. The complainant did not reserve any liberty to continue with the present complaint, and the learned Trial Court had rightly held that the complaint was not maintainable. The learned Trial Court had taken a reasonable view, and this Court should not interfere with the reasonable view taken by the learned Trial Court. Therefore, he prayed that the present

appeal be dismissed. He relied upon *Shlok Bhardwaj vs. Runika Bhardwaj & Ors. 2015 (2) SCC 721* in support of his submission.

11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

12. The present appeal has been filed against a judgment of acquittal. It was laid down by the Hon'ble Supreme Court in *Surendra Singh v. State of Uttarakhand, 2025 SCC OnLine SC 176: (2025) 5 SCC 433* that the Court can interfere with a judgment of acquittal if it is patently perverse, is based on misreading/omission to consider the material evidence and reached at a conclusion which no reasonable person could have reached. It was observed at page 440:

“11. Recently, in the case of *Babu Sahebagouda Rudragoudar v. State of Karnataka 2024 SCC OnLine SC 4035*, a Bench of this Court to which one of us was a Member (B.R. Gavai, J.) had an occasion to consider the legal position with regard to the scope of interference in an appeal against acquittal. It was observed thus:

“38. First of all, we would like to reiterate the principles laid down by this Court governing the scope of interference by the High Court in an appeal filed by the State for challenging the acquittal of the accused recorded by the trial court.

39. This Court in *Rajesh Prasad v. State of Bihar, (2022) 3 SCC 471: (2022) 2 SCC (Cri) 31* encapsulated the legal position covering the field after

considering various earlier judgments and held as below: (SCC pp. 482–83, para 29)

“29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words: (*Chandrappa v. State of Karnataka*, (2007) 4 SCC 415:(2007) 2 SCC (Cri) 325], SCC p. 432, para 42)

‘42. From the above decisions, in our considered view, the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Criminal Procedure Code, 1973, puts no limitation, restriction or condition on the exercise of such power and an appellate court, on the evidence before it, may reach its own conclusion, both on questions of fact and law.

(3) Various expressions, such as “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc., are not intended to curtail the extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with an acquittal than to curtail the power of

the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in the case of acquittal, there is a double presumption in favour of the accused. *Firstly*, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. *Secondly*, the accused, having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

40. Further, in *H.D. Sundara v. State of Karnataka*, (2023) 9 SCC 581: (2023) 3 SCC (Cri) 748], this Court summarised the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378CrPC as follows: (SCC p. 584, para 8)

8.....8.1. The acquittal of the accused further strengthens the presumption of innocence.

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to reappreciate the oral and documentary evidence.

8.3. The appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record.

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.”

41. Thus, it is beyond the pale of doubt that the scope of interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised within the four corners of the following principles:

41.1. That the judgment of acquittal suffers from patent perversity.

41.2. That the same is based on a misreading/omission to consider material evidence on record; and

41.3. That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.”

12. It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.”

13. The present appeal has to be decided as per the parameters laid down by the Hon’ble Supreme Court.

14. It is undisputed that the marriage between the parties was dissolved by a decree of divorce by way of mutual consent on 21.10.2010. This fact was specifically mentioned in paragraph 2 of the complaint. The Complainant (CW-1) stated on oath that the marriage between the parties was dissolved by a decree of divorce (Ext.CW-1/A) on 21.10.2020. She denied in her cross-examination that nothing was due towards her.

15. The copy of the judgment (Ext.CW-1/A) mentions that the parties had mutually agreed to dissolve their marriage by consent. Their statements were recorded, and the marriage between them was dissolved by a decree of divorce.

16. It was laid down by the Hon'ble Supreme Court in *Shlok Bhardwaj (supra)* that once the matter was settled between the parties and the settlement was given effect to in the form of mutual consent, no dispute survives between the parties, and the wife could not continue with the proceedings against her husband. It was observed:

“11. It is clear from perusal of the impugned order [*Runika Bhardwaj v. State of U.P., Criminal Revision No. 1159 of 2002, decided on 21-11-2006 (All)*] of the High Court that the development of a settlement between the parties during the pendency of the revision petition has not even been adverted to. Once the matter was settled between the parties and the said settlement was given effect to in the form of divorce by mutual consent, no

further dispute survived between the parties, though it was not so expressly recorded in the order of this Court. No liberty was reserved by the wife to continue further proceedings against the husband. Thus, the wife was, after settling the matter, estopped from continuing the proceedings.

17. This judgment was followed by the Punjab and Haryana High Court in *Krishan Singh v. State of Punjab*, 2020 SCC OnLine P&H 4879, wherein it was observed: –

“7. A similar question arose for consideration before the Supreme Court in a judgment rendered in *Ruchi Agarwal v. Amit Kumar Agarwal*, (2004) 4 RCR (Cri) 949, wherein the wife, despite a compromise, did not put in an appearance to get her statement recorded for the withdrawal of cases filed by her under Sections 498-A and 506 of the IPC. The facts were similar to those in the instant case, and the Supreme Court in para 7 of the judgment came to hold that: —

“7. xx xx xx Therefore, we are of the opinion that the appellant, having received the relief she wanted without contest on the basis of the terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents”.

8. The judgment as rendered in *Ruchi Agarwal* (supra) has subsequently been followed in *Mohd. Shamim v. Smt. Nahid Begum*, (2005) 1 RCR (Cri) 697 and *Shlok Bhardwaj v. Runika Bhardwaj*, (2015) 2 SCC 721, wherein it has been held that after the matter has been settled between the parties, the wife is estopped from continuing criminal proceedings. The judgment of *Mohd. Shamim v. Smt. Nahid Begum* (supra) has subsequently been followed by this Court in ‘*Nirmal Sachdeva v. State of Haryana*, (2008) 27 RCR (Cri) 153’, ‘*Kamal Kishore v. State of Punjab*, (2006)

2 RCR (Cri) 342', and 'Naveen v. State of Haryana, 2019 Cri LJ 1004' in CRM-M-17367-2018 decided on 06.12.2018 and Ram Lal v. State of Haryana, (2008) 2 RCR (Cri) 823."

18. Therefore, the learned Trial Court had rightly held that the complainant/wife was estopped from proceeding further with the complaint filed by her when she had not reserved any right to proceed with the matter. This was a reasonable view which could have been taken based on the judgment of the Hon'ble Supreme Court, and no interference is required with it while deciding the appeal against acquittal.

19. Mr Lalit Sharma, learned counsel for the appellant/complainant, submitted that the learned Trial Court erred in insisting upon the proof of *stridhan* to the complainant. It is not necessary to decide this question because even if it is held that the learned Trial Court erred in requiring the strict proof delivery of the *stridhan* and proof of its purchase, still the complaint is liable to be dismissed as per the judgment of the Hon'ble Supreme Court in *Shlok Bhardwaj* (supra). Hence, this question is academic and is not required to be decided in the present case.

20. No other point was urged.

21. In view of the above, the present appeal fails and is dismissed. Pending applications, if any, also stand disposed of.

22. In view of the provisions of Section 437-A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha Sanhita, 2023) the respondents are directed to furnish bail bonds in the sum of ₹50,000/- each with one surety each of the like amount to the satisfaction of the learned Registrar (Judicial) of this Court/learned Trial Court which shall be effective for six months with a stipulation that in the event of a Special Leave Petition being filed against this judgment or on grant of the leave, the respondents on receipt of notice thereof shall appear before the Hon'ble Supreme Court.

23. A copy of the judgment, along with the record of the learned Trial Court, be sent back forthwith.

27th November 2025
(*ravinder*)

(Rakesh Kainthla)
Judge