

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision Petition No. 87/2007

Ghewar Chand Mewara S/o Chhoga Lal Mewara R/o Mokalsar
Road, Near Petrol Pump, Tehsil Siwana, District Barmer

-----Petitioner

Versus

1. Smt. Vidhya Devi W/o Bhoma Ram Mewara Kalal C/o Vaishali Communications, Geeta Nagar, Phase No.8, Behind Golden Nest, Meera Bhaynadar Road, Meera Road (East), Mumbai.
2. Prakash S/o Bhoma Ram Mewara Kalal C/o Vaishali Communications, Geeta Nagar, Phase No.8, Behind Golden Nest, Meera Bhaynadar Road, Meera Road (East), Mumbai.
3. Bhoma Ram S/o Achala Ji Mewara Kalal C/o Vaishali Communications, Geeta Nagar, Phase No.8, Behind Golden Nest, Meera Bhaynadar Road, Meera Road (East), Mumbai.
4. Bhanwar Lal R/o Kumharon ka Jao, Bhatawara, Phalana Station, District Pali.
5. State of Rajasthan.

-----Respondents

For Petitioner(s)	:	Mr. M.K. Trivedi
For Respondent(s)	:	Mr. K.S. Kumpawat, assistant to Mr. Deepak Chowdhary, GA-cum-AAG Mr. Ravindra Singh for Mr. Mahendra Singh Godara

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Judgment

16/07/2025

Instant criminal revision petition under Section 397/401 Cr.P.C. has been filed by the petitioner against the judgment dated 30.10.2006 passed by learned Sessions Judge, Balotra in Cr. Appeal No.07/2003 whereby the learned appellate court allowed the appeal of the respondents No.1 to 4 and acquitted them from offence under Section 498-A IPC while reversing the judgment of

conviction dated 18.10.2003 passed by the learned Judicial Magistrate, First Class, Siwana in Criminal Regular Case No.21/1996.

Brief facts of the case are that the petitioner-complainant Ghewar Chand submitted a written report before the Deputy Superintendent, Circle-Balotra against the accused-respondents No.1 to 4 for offence under Section 498-A IPC. Upon which, Police registered an FIR and started investigation.

On completion of investigation, the police filed challan against the accused-respondents No.1 to 4. Thereafter, the trial court framed the charge against the accused-respondent Nos.1 to 4 for offence under Section 498A IPC, who denied the charge and claimed trial.

During the course of trial, the prosecution examined 13 witnesses and got exhibited certain documents. Thereafter, statements of the accused-respondent Nos.1 to 4 were recorded under section 313 Cr.P.C.

Upon conclusion of the trial, the learned trial court vide impugned judgment dated 18.10.2003 convicted and sentenced the accused-respondent Nos.1 to 4 for offence under Section 498-A IPC.

Against their conviction, the accused-respondent Nos.1 to 4 preferred an appeal before the learned appellate court, which came to be allowed vide judgment dated 30.10.2006 and the appellate court while reversing the judgment of conviction of the trial court, acquitted the respondents No.1 to 4 from offence under Section 498A IPC. Hence this revision petition.

Learned counsel for the petitioner has submitted that despite the clear cut findings of conviction of the trial court, the learned appellate court acquitted the accused-respondent Nos.1 to 4 from offence under Section 498A IPC. Counsel submits that there is ample evidence against the accused-respondent Nos.1 to 4 regarding commission of offence but the learned appellate court has not considered the same in right perspective and acquitted the accused-respondent Nos.1 to 4. The learned appellate court has committed grave error in acquitting the accused-respondent Nos.1 to 4. Thus, the impugned appellate judgment deserves to be quashed and set aside and the judgment of conviction passed by the trial court deserves to be upheld.

Per contra, counsel for the accused-respondent Nos.1 to 4 submits that the learned appellate court has passed a detailed and reasoned order of acquittal, which requires no interference from this Court.

Heard learned counsel for the parties and perused the impugned judgment as well as considered the material available on record.

On perusal of the impugned appellate judgment, it appears that the learned appellate court while passing the impugned judgment has considered each and every aspect of the matter and also considered the finding of the trial court. There are major contradictions, omissions & improvements in the statements of the witnesses. The prosecution has failed to prove its case against the accused-respondent Nos.1 to 4 beyond all reasonable doubts and thus, the learned appellate court has rightly acquitted the

accused-respondent Nos.1 to 4 from offence under Section 498A IPC.

In the light of aforesaid discussion, the petitioner has failed to show any error of law or on facts on the basis of which interference can be made by this Court in the judgment under challenge. The learned appellate court has rightly acquitted the accused-respondent Nos.1 to 4 from the offence under Section 498A IPC. The order passed by the learned appellate court is a detailed and reasoned order and the same does not warrant any interference from this Court.

In the case of **'Mrinal Das & others v. The State of Tripura, : reported in 2011(9) SCC 479,'** the Hon'ble Supreme Court, after looking into many earlier judgments, has laid down parameters, in which interference can be made in a judgment of acquittal, by observing as under:

"An order of acquittal is to be interfered with only when there are "compelling and substantial reasons", for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference. When the trial Court has ignored the evidence or misread the material evidence or has ignored material documents like dying declaration/report of ballistic experts etc., the appellate court is competent to reverse the decision of the trial Court depending on the materials placed.

Similarly, in the case of State of **Rajasthan v. Shera Ram alias Vishnu Dutta, reported (2012) 1 SCC 602,'** the Hon'ble Supreme Court has observed as under:--

"A judgment of acquittal has the obvious consequence of granting freedom to the accused. This Court has taken a consistent view that unless the judgment in appeal is contrary to evidence, palpably erroneous or a view which could not have been taken by the court of competent jurisdiction keeping in view the settled canons of criminal jurisprudence, this Court shall be reluctant to interfere with such judgment of acquittal."

Similarly in the case of State of **State of Uttarakhand Vs. Sanjay Ram Tamta, reported (2025) 2 SCC 159,** the Hon'ble Supreme Court has observed as under:--

"6. Trite is the principle that the appellate courts would be slow in reversing an order of acquittal, especially since the presumption of innocence that is always available to the accused; as a basic principle of criminal jurisprudence, stands reinforced and reaffirmed by the acquittal and unless there are very substantive and compelling reasons to do so, there cannot be a reversal of an order of acquittal. Unless it is found that the findings are perverse and the only conclusion possible from the compelling evidence is of guilt; appellate courts will be slow to reverse an order of acquittal.

7. Recently, in *Surender Singh Vs. State of Uttarakhand*, one of us (B.R. Gavai, J.) referring to various binding precedents of this Court succinctly laid down the principle in the following manner in SCC para 24:

24 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.”

There is a very thin but a fine distinction between an appeal/revision against conviction on the one hand and acquittal on the other. The preponderance of judicial opinion is that there is no substantial difference between an appeal/revision against acquittal except that while dealing with an appeal/revision against acquittal the Court keeps in view the position that the presumption of innocence in favour of the accused has been fortified by his acquittal and if the view adopted by the appellate Court is a reasonable one and the conclusion reached by it had grounds well set out on the materials on record, the acquittal may not be interfered with. Learned counsel for the petitioner has failed to show any error of law or on facts on the basis of which interference can be made by this Court in the judgment under challenge.

In the facts and circumstances of the case, the present criminal revision petition has no substance and the same is hereby dismissed.

The record of the courts below be sent back forthwith.

(MANOJ KUMAR GARG),J