

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.212 OF 2016
[Arising out of S.L.P.(Crl.)No.3695 of 2013]

Charanjit Kaur

.....Appellant

Versus

Bikram Singh & Anr.

.....Respondents

W I T H

CRIMINAL APPEAL NO.213 OF 2016
[Arising out of S.L.P.(Crl.)No.3694 of 2013]

J U D G M E N T

SHIVA KIRTI SINGH, J.

1. Heard the parties. Leave granted.
2. Various shades of life at times create so much impact that even a disinterested person gets shaken and tends to recall the clichéd statement that truth can be stranger than fiction. At least in the Indian society, a wife, come what may, is perceived to be the ultimate caretaker of her family and particularly the husband. But cruel acts of the husband and the in-laws can turn the situation upside down. The essential brief facts of this case amply justify the aforesaid observations.

3. The appellant is wife of respondent no.1. Harassed and tortured on account of greed for dowry, she was hounded out of the matrimonial house and was forced by such circumstances to lodge a criminal case under Section 498A, 406 and 120B of the IPC when all hopes of compromise sought to be achieved through numerous rounds of Panchayat by the elders of the two families failed to yield any result and allegedly even ornaments and *streedhan* of the appellant were not returned to her. During trial the father-in-law expired and mother-in-law was acquitted but the husband, respondent no.1 herein was convicted and awarded R.I. for one year for each of the offence under Section 406 and 498A of the IPC and also a fine of Rs.1000/- with a default clause of R.I. for 15 days. The sentences were ordered to run concurrently.

4. The appellant preferred an appeal against the acquittal of mother-in-law as well as for enhancing the punishment awarded to the husband. State also appealed against acquittal whereas respondent no.1 preferred appeal against his conviction. All the three appeals were dismissed by the learned Sessions Judge, Kapurthala and the judgment and order of the learned Judicial Magistrate, 1st Class, Phagwara dated 30.07.2007 in R.T. No.8 of 23.5.2007 arising out of FIR No.8 dated 8.1.2002 of P.S. Sadar, Phagwara was affirmed with a modification in the sentence awarded to Bikram Singh, respondent no.1. He was shown marked leniency in view of a plea that in case he is sent to jail he may

lose his Government job. The Sessions Court, on the aforesaid ground permitted him to deposit Rs.2,50,000/- payable to the appellant within one month and if such deposit is made then he was to get the benefit of probation bond under Section 4(1) of the Probation of Offenders Act, 1958.

5. Against the aforesaid judgment and order of the Additional Sessions Judge, Kapurthala dated 16.12.2010 the appellant preferred Crl. Revision No.803 of 2011 in the High Court of Punjab & Haryana at Chandigarh which has been dismissed virtually in a summary manner by the order under appeal dated March 12, 2012.

6. On behalf of the appellant, a number of submissions have been advanced to assail the impugned order. It has been contended that considering the nature of the offence, no leniency should have been shown to the respondent no.1 after his conviction was affirmed for offences under Sections 498A and 406 of the IPC. The appellant claims that she did not withdraw the fine of Rs.1000/- awarded by the trial court or the amount of Rs.2,50,000/- awarded by the appellate court. The High Court appears to have been influenced by a wrong presumption that there was still a chance to save the marriage although the fact is otherwise and would have been clear if High Court had granted an opportunity to the appellant to express her feelings and view in the matter.

7. Without expressing any opinion on the pleas advanced on behalf of the appellant and the reply advanced on behalf of respondents, after going through the order under appeal and noticing the summary manner in which the Revision has been dismissed only after noticing that Rs.2,50,000/- has been deposited, we are of the firm view that the impugned order needs to be set aside so that the matter may be sent back to the High Court for re-hearing the parties and fresh decision on merits. We order accordingly. The appeal arising out of S.L.P. (Crl.)No.3695 of 2013 is allowed to the aforesaid extent. Be it noted that we have not gone into the merits of rival submissions and the High Court would be free to take its own decision in matter strictly in accordance with law.

8. This order shall govern the appeal arising out of S.L.P. (Crl.)No.3694 of 2013, also.

JUDGMENT.....J.
[DIPAK MISRA]

.....J.
[SHIVA KIRTI SINGH]

New Delhi.
March 10, 2016.