

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.615 OF 2017
[@ SPECIAL LEAVE PETITION (CRL) NO. 2406 OF 2017]

RANI DUDEJA

APPELLANT (S)

VERSUS

STATE OF HARYANA

RESPONDENT (S)

J U D G M E N T

KURIAN, J.

1. Leave granted.
2. In the nature of order we propose to pass in this appeal, it is not necessary to issue notice, since we propose to send the matter back to the High Court.
3. The appellant approached the High Court with a petition under Section 438 of the Cr.P.C. By the impugned order dated 7.3.2017, the petition was rejected on the ground that the appellant had filed a petition earlier and the same had been withdrawn and, therefore, the appellant cannot be allowed to re-agitate the matter on merits.
4. We are afraid, the stand taken by the High Court cannot be appreciated. The petition was for anticipatory bail and the one which had been filed earlier might have been withdrawn in a given situation, without inviting the Court to consider the same on merits. On change of circumstances, when another application under Section 438 Cr.P.C. was filed, the High Court should have considered the same on merits. The principle of res judicata could not have operated in an application for bail.

5. The order dated 7.3.2017 is set aside. Crl. Misc. No.M-7712 of 2017(O&M) will stand revived before the High Court. The matter be posted before the appropriate Court on 3.4.2017 for consideration, in accordance with law.

6. With the above observations and directions, the appeal stands disposed of.

.....J.
[KURIAN JOSEPH]

.....J.
[R. BANUMATHI]

NEW DELHI;
MARCH 30, 2017.



JUDGMENT