

CHARANJIT KAUR

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v.

BIKRAM SINGH & ANR.

(Criminal Appeal No. 212 of 2016)

MARCH 10, 2016

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**[DIPAK MISRA AND SHIVA KIRTI SINGH, JJ.]**

*Penal Code, 1860: ss. 406, 498A – Dowry demand – Husband convicted and sentenced to rigorous imprisonment for 1 year – Appeal by appellant-wife for enhancement of punishment – Respondent-husband also appealed against conviction – Sessions Judge dismissed the appeals filed by appellant-wife and respondent-husband – However, in view of plea that in case the husband is sent to jail he may lose his government job, Sessions Judge modified sentence awarded to husband-respondent and permitted him to deposit Rs.2,50,000 payable to the appellant within one month to get the benefit of probation – Aggrieved appellant filed revision in High Court which was dismissed in a summary manner – Hence appeal – Held: The High Court dismissed the revision in summary manner only because Rs.2,50,000/- had been deposited – The impugned order needs to be set aside so that the matter may be sent back to High Court for re-hearing the parties and fresh decision on merits.*

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 212 of 2016 (Arising out of S.L.P. (Crl.) No. 3695 of 2013)

From the Judgment and Order dated 12.03.2012 in Criminal Revision No. 803 of 2011 passed by the High Court of Punjab & Haryana at Chandigarh.

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WITH

Crl. A. No. 213 of 2016 (Arising out of S.L.P. (Crl.) No. 3694 of 2013)

Ugra Shankar Prasad, Adv. for the Appellant.

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Jayant K. Sud, AAG, Ms. Jasleen Chahal, Asst. AG, Ajay P. Tusir, Shree Pal Singh, Ms. Naresh Bakshi, Advs. for the Respondents.

The Judgment of the Court was delivered by

**SHIVA KIRTI SINGH, J.** 1. Heard the parties. Leave granted.

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A           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  
B           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  
C           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  
D           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  
E           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, 1<sup>st</sup> Class, Phagwara dated  
30.07.2007 in R.T. No.8 of 23.5.2007 arising out of FIR No.8 dated  
F           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  
G           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  
H           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. A

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. B C

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. D E

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