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Raksha Devi and ors. Vs. Aruna Devi

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Court : Punjab and Haryana

Decided On : Jul-23-1990

Reported in : I(1991)DMC46

Judge : S.D. Bajaj, J.

Acts : Dowry Prohibition Act, 1961 - Sections 2(1); Indian Penal Code (IPC), 1860 - Sections 406

Appeal No. : Criminal Misc. No. 72-M of 1990

Appellant : Raksha Devi and ors.

Respondent : Aruna Devi

Advocate for Def. : Sarwan Singh, Adv.

Advocate for Pet/Ap. : R.K. Joshi, Adv.

Disposition : Petition dismissed

Judgement :

S.D. Bajaj, J.

1. Heard. In Madhu Sudan Malhotra v. Kishore Chand Bhandari and Ors., Criminal Appeal No. 635 of 1987 their lord' ships of the Supreme Court observed in S.L.P. No. 1719 of 1987 on December 7, 1987, 'After hearing learned counsel for the

parties, we are satisfied that in the facts and circumstances of the case the High Court was in error in refusing to grant leave under Section 378(4) of the . Code of Criminal Procedure, 1973. We are prima facie inclined to the view that the furnishing of a list of ornaments and other household articles such as refrigerator, furniture, electric appliances etc. at the time of the settlement of the marriage amounts to demand of dowry within the meaning of Section 2(a) of the Dowry Prohibition Act, 1961. That being so, the High Court, ought to have considered the appeal on merits and decide as to whether the respondents were guilty of offences punishable under Section 406 of the Indian Penal Code, 1860 read with Sections 4 and 5 of the Dowry Prohibition Act 1961 by the wrongful retention of the articles given as marriage gifts while driving out the appellant Smt, Anita daughter of Madhu Sudan Malhotra from the matrimonial house. The High Court would also ensure that all the articles given to her at the time of the marriage, including the valuable gold ornaments, are restored to her. The appeal is accordingly allowed and the order passed by the High Court is set aside.' In the present case also list Annexure 'A' of the dowry articles with their price mentioned in it was duly prepared as stated in para 4 of the complaint filed by the respondent Smt. Aruna Devi against the petitioners before the learned trial court on August 7, 1989. There is thus no merit in Criminal Misc. No. 72-M of 1990: Dismissed.

2. The petitioners may, if they are so advised, avail of the pleas set out in the quashing petition before the learned trial court while defending the complaint against them.

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