

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2023
(arising out of SLP(CRIMINAL) No.1090 OF 2023)

BHAWNA APPELLANT
VERSUS
BHAY RAM AND OTHERS RESPONDENTS

O R D E R

Leave granted.

We have heard learned counsel for the parties.

The appellant is the complainant in a case under the Protection of Women from Domestic Violence Act, 2005. In the trial, the right of the appellant to lead evidence was closed and the complaint was rejected. Therefore, the appellant had filed an appeal. The Appellate Court allowed the appeal directing the trial court to reopen the case and allow the appellant to lead evidence subject to her paying cost of Rs.20,000/- per witness. When the appellant moved the High Court against the said order, the High Court reduced the cost to Rs.10,000/- per witness. In addition, the Appellate Court as well as the High Court said that the appellant will not be entitled to maintenance during the said period.

In a complaint filed under the Protection of women from Domestic Violence Act, 2005, it is not open to the Court to impose such onerous conditions upon the appellant, who claims to be a victim of domestic violence. What the Appellate Court and the High

Court have ordered are actually in the nature of penalty for the appellant not proceeding with the trial. In the first instance, it is impermissible in law.

Therefore, the appeal is allowed and that portion of the order of the Appellate Court and the High Court imposing the cost upon the appellant for examination of every witness and also depriving the appellant of interim maintenance is set aside.

The trial court shall permit the appellant to lead evidence without imposing the onerous conditions.

Physical presence of the parents-in-law of the appellant, who are also the respondents herein, shall be dispensed with by the trial court.

Pending application(s), if any, shall stand disposed of.

.....J.
(V. RAMASUBRAMANIAN)

.....J.
(PANKAJ MITHAL)

NEW DELHI;
FEBRUARY 17, 2023.
PS

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 1090/2023

(Arising out of impugned judgment and order dated 02-08-2022 in CRLMC No. 3110/2021 passed by the High Court Of Delhi At New Delhi)

BHAWNA

PETITIONER(S)

VERSUS

BHAY RAM AND OTHERS

RESPONDENT(S)

(IA No. 4840/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 17-02-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN
HON'BLE MR. JUSTICE PANKAJ MITHALFor Petitioner(s) Mr. Pawanshree Agrawal, AOR
Ms. Shubhangi Negi, Adv.
Ms. Soumya Dhankani, Adv.
Mr. Shaubhik Gupta, Adv.

For Respondent(s)

Mr. Hira Lal Nimbaa, Adv.
Mr. Subhash Kumar, Adv.
Mr. Ajit Kumar Ekka, AORUPON hearing the counsel, the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(POOJA SHARMA)
COURT MASTER (SH)(RENU BALA GAMBHIR)
COURT MASTER (NSH)

(Signed order is placed on the file.)