

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1497 OF 2008
[Arising out of SLP(Crl) 4802 of 2007]

PRITAM SINGH SIDHU

.....APPELLANT(S)

Versus

STATE OF PUNJAB & ANR.

.....RESPONDENT(S)

ORDER

Leave granted. Heard learned counsel for the parties.

2. The second respondent is the wife of one Gurjant Singh. The appellant is the brother-in-law of the said Gurjant Singh. The second respondent filed a complaint under Section 406 and 498A of IPC in the Court of Sub Divisional Judicial Magistrate, Abohar against her husband (A1), father-in-law (A2), mother-in-law (A3), sister-in-law (A4) and the husband of the sister-in-law (A5) who is the appellant herein. The only reference to accused No.5 (appellant) in the said complaint reads thus:

“One T.V., one fridge, one washing machine were handed over to the accused No.5 who is the brother-in-law of the complainant as a trust property.”

In the pre-summons statement recorded by the learned Magistrate, there is no reference to appellant. Learned Magistrate by order dated 26.4.2004 dismissed the complaint

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against A-4 and ordered summons to A-1, A-2, A-3 and A-5. Feeling aggrieved, the said four accused filed a petition under Section 482 before the High Court. However, subsequently, A-1, A-2 and A-3 did not press the said petition and the petition was rejected insofar as the said accused. Thus the petition under Section 482 Cr.P.C. that came up for consideration before the learned single Judge of the High Court was only by A5 - appellant herein. Learned single Judge by order dated 10.5.2007 dismissed the petition by the following order:

“The effort of re-conciliation has failed. Though the wife is willing to join the company of the petitioner, but he is adamant. In my view, no ground for quashing is made out. Dismissed.”

We find that the High Court has totally misdirected itself and proceeded on the erroneous assumption that the petitioner before it was the husband of the complainant and that he had refused to take his wife back though she was willing to join him. But the petitioner in Section 482 petition was not the husband, but his brother-in-law. This has led to a wrong order being passed.

3. We have examined the entire complaint and the statement

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given by the complainant. There is no reference to the appellant that will link him in regard to any offence under Sections 406 or 498A IPC.

4. We, therefore, allow this petition, set aside the order of the High Court and quash the proceedings insofar as appellant (A5) is concerned.

.....J.
(R.V. RAVEENDRAN)

New Delhi;
September 19, 2008.

.....J.
(LOKESHWAR SINGH PANTA)