

Madhu Sudan Malhotra

Vs

Kishore Chand Bhandari and Others

Criminal Appeal No. 635 of 1987

(A. P. Sen, L. M. Sharma JJ)

07.12.1987

ORDER

1. Special leave granted. Arguments heard.

2. 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(1) of the Dowry Prohibition Act, 1961. That being so, the High Court ought to have considered the appeal on merits and decided as to whether the respondents were guilty of offences punishable under Section 406 of the Indian Penal Code, 1860 read with Sections 4 and 6 of the Dowry Prohibition Act, 1961 by the wrongful retention of the articles given as marriage gifts, while driving out the wife Smt. Anita 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.

3. The appeal is accordingly allowed and the order passed by the High Court is set aside. The High Court will grant the requisite leave under Section 378(4) of the Code of Criminal Procedure and hear the appeal on merits. The High court will come to its own conclusions and consider the matter afresh, without being influenced by any of the observations made by us. The High Court would also take appropriate steps for return of the articles given to the daughter Anita at the time of her marriage.

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