

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).4616/2005.

(From the judgement and order dated 08/08/2005 in Crl.M No.33838-M/2004  
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

HARPAL SINGH & ORS.

Petitioner(s)

VERSUS

PARVEEN KAUR & ANR.

Respondent(s)

[With appln(s) for stay and office report]

Date: 19/10/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s) Ms. Abha R. Sharma, Adv.

For Respondent(s) Dr. Ramesh K. Haritash, Adv.

Mr. Dharam Singh, Adv.

Mr. Anil K. Sharma, Adv.

Ms. Hema Sharma, Adv.

Dr. Kailash Chand, Adv.

Mr. Rajeev Gaur 'Naseem', Adv.

Mr. T.V. George, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The Criminal Appeal is allowed in terms of the Signed Order.

(Subhash Chander)

(Pushap Lata Bhardwaj)

Court Master

Court Master

[Signed Order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2006

[Arising out of S.L.P.(Cr1.) No.4616 of 2005]

Harpal Singh & Ors.

.....Appellants

Versus

Parveen Kaur & Anr.

.....Respondents.

O R D E R

Leave granted.

By reason of the impugned order dated 08th August 2005, the High Court

recorded :

"Counsel for the complainant says that his client does not press proceedings against three married sisters and one unmarried sister of her husband, i.e., petitioners No.4 to 7. In view of this statement made on behalf of the complainant, proceedings against petitioners No.4 to 7 are quashed.

The trial court will grant exemption to petitioner No.3 from personal appearance on an application being filed, on laying down appropriate conditions, in view of the law laid down by the Apex Court in M/s. Bhaskar Industries Ltd. Vs. M/s. Bhiwani Denim and Apparels Ltd. and others, AIR 2001 Supreme Court 3625 and S.V. Mazumdar and others Vs Gujarat State Fertilizer Co. Ltd. and another, (2005) 4 Supreme Court Cases 173.

The parties will appear before the trial court for further proceedings on 5.9.2005."

We do not appreciate the approach of the High Court. If the appellants have made out a prima facie case that the proceedings against them are liable to be quashed by the High Court in exercise of its jurisdiction under Section 482, Code of Criminal Procedure (Cr.P.C.), the same was required to be considered on merit. The High Court for cogent or sufficient reason also could have rejected the contention of the appellants, but, only on the basis of the statements made by the complainant, it should not have refused to consider the merit of the matter so far as the appellants are concerned. We, therefore, set aside the impugned judgment and remit the matter to the High court for consideration on merit of the application filed by the appellants under Section 482, Cr.P.C.

The Criminal Appeal is allowed accordingly.

Sd/-

.....J.

[S.B. SINHA]

Sd/-

.....J.

[MARKANDEY KATJU]

New Delhi.

October 19, 2006.