

**2023 LiveLaw (SC) 148**

**IN THE SUPREME COURT OF INDIA**  
**CRIMINAL APPELLATE JURISDICTION**  
**V. RAMASUBRAMANIAN; J., PANKAJ MITHAL; J.**  
**FEBRUARY 17, 2023**

**CRIMINAL APPEAL NO. OF 2023 (Arising out of SLP(CRIMINAL) No.1090 OF 2023)**

**BHAWNA *versus* BHAY RAM AND OTHERS**

**Protection of Women from Domestic Violence Act 2005 - 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.**

(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)

*For 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, AOR*

**ORDER**

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.