

Court No. - 9

Case :- CRIMINAL APPEAL U/S 372 CR.P.C. No. - 54 of 2023

Appellant :- Savitri

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And 3 Others

Counsel for Appellant :- Syed Mohd. Munis Jafari

Counsel for Respondent :- G.A.

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Manjive Shukla,J.

1. Heard learned counsel for the appellant and learned A.G.A. for the State.
2. Learned A.G.A., at the very outset, has raised preliminary objection regarding maintainability of the present Criminal Appeal under Section 372 Cr.P.C. According to him, the scope of appeal, as postulated under Section 372 Cr.P.C., is a punishment for lesser offence or the appeal would lie against the order of acquittal. These are the twin conditions within the scope of legal provision for which an appeal is maintainable. The situation at hand is not such that the appellant may have been punished for a lesser offence.
3. The charge was framed against the appellant under Section 304B I.P.C. with an alternative charge under Section 302 I.P.C. during the course of trial. The conviction and sentence has been recorded under Section 304B I.P.C., thus, we have no manner of doubt regarding the appellant being punished for the offence charged against.
4. In these circumstances, we find that preliminary objection raised by learned A.G.A. has force and deserves to be sustained. Accordingly, we reject the present appeal at the admission stage itself, leaving it open to the appellant for availing the remedy of revision as permissible under law.
5. Certified copy of the judgement may be returned to learned counsel for the appellant by retaining the photocopy of the same on record.

Order Date :- 26.5.2023

A. Mandhani