

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 573 OF 2018

(Arising out of SLP (CrI.) No. 3542 of 2018)

(Arising out of Diary No. 11816 of 2017)

THESIMA BEGAM AND ANR.

Appellant(s)

VERSUS

THE STATE OF TAMIL NADU

REP. BY THE INSPECTOR OF POLICE & ORS.

Respondent(s)

O R D E R

Delay condoned.

Leave granted.

Heard learned counsel for the parties finally.

Brief facts leading to the filing of this appeal are that the marriage between *de facto* complainant i.e., Rafeek Nisa (respondent No. 2 herein), and Shajahan was solemnised on 23.04.2000. It appears that they could not put on well and some matrimonial disputes arose between the parties which ruptured the matrimonial relationship. Respondent No.2 made a complaint to the Inspector of Police against her husband Shajahan under Section 498A and Section 406 of the Indian Penal Code (IPC) read with Section 4 of the Dowry Prohibition Act, 1961. In this complaint, she implicated her mother-in-law, brother-in-law as well as the appellants herein who are sister-in-law and husband of the sister-in-law. After investigation, chargesheet was filed and in this

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chargesheet, names of the appellants were also included. The appellants at that stage filed petition under Section 482 of the Code of Criminal Procedure, 1973(Cr.P.C.) for quashing of the chargesheet against them. The High Court rejected this petition vide order dated 22.04.2016 only on the ground that trial in the case has begun and, therefore, the High Court would not interfere with the said process.

A neat submission is made by the learned counsel for the appellants that the *de-facto* complainant herself stated in her statement that she had implicated the appellants herein out of anger and as far as they are concerned, they had no role in the family dispute and they were not party in making any demand of dowry. Relevant part of the statement of the complainant reads as under:

"However my sister in law Thesimma, her husband Sakariah, brother in law's wife namely Hajira Beevi and small mother in law namely Saribu Nisha did not interfere in to the dispute and not taken steps and help me to live together with my husband therefore having angry over them I named their names in the complaint and otherwise they did not do any problem with me. My husband, mother in law and brother in law Mohamed Ajmir Saribu alone harassed me by demanding dowry."

In view of the aforesaid stand taken by the complainant herself, we see no justifiable reason for the Investigating Officer to rope in the appellants as well in the chargesheet. Interestingly, even in the chargesheet submitted by the Investigating Officer, she has very categorically stated that insofar as appellants are

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concerned, they were living in foreign country. In spite thereof, the Investigating officer filed chargesheet against all the persons including the appellants, mechanically and without application of mind.

We, accordingly, allow this appeal and quash the chargesheet insofar as appellants are concerned.

The appeal stands disposed of.

....., J.
[A.K. SIKRI]

....., J.
[ASHOK BHUSHAN]

New Delhi;
April 02, 2018.

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ITEM NO.36

COURT NO.5

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 11816/2017

(Arising out of impugned final judgment and order dated 22-04-2016 in CRLOP No. 6871/2016 passed by the High Court of Judicature at Madras at Madurai)

THESIMA BEGAM & ANR.

Petitioner(s)

VERSUS

THE STATE OF TAMIL NADU
REP. BY THE INSPECTOR OF POLICE & ORS.

Respondent(s)

(With IA No.112082/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.112083/2017-EXEMPTION FROM FILING O.T. and IA No.112081/2017-CONDONATION OF DELAY IN REFILING and IA No.1225/2018-EXEMPTION FROM FILING O.T.)

Date : 02-04-2018 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s) Mr. Aravindh S., AOR

For Respondent(s) Mr. M. Yogesh Kanna, AOR
Ms. Sujatha Bayadhi, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

The appeal stands disposed of in terms of the signed order.

Pending applications stand disposed of.

(NIDHI AHUJA)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

[Signed order is placed on the file.]