

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).3797/2008

(From the judgement and order dated 10/01/2008 in
of The HIGH COURT OF DELHI AT N. DELHI)

WP No. 46/2008

VANDANA CHOUDHARY @ VANDANA SHOKEEN
VERSUS

Petitioner(s)

RAGUHUBIR SINGH & ORS.

Respondent(s)

(With appln(s) for stay,permission to place
record and office report) (For final disposal)

addl. documents on

Date: 23/07/2010 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s) Ms. Kamini Jaiswal, Adv.
Mr. B.S. Mor, Adv.
Ms. Kusum Singh, Adv.
Mr. R.C. Kaushik, Adv.

For Respondent(s) Mr. K.K. Tyagi, Adv
Mr. Iftekhar Ahmad, Adv.
Mr. P. Narasimhan, Adv.

Mr. J.S. Attri, Sr. Adv.
Ms. Sadhana Sandhu, Adv.
Mrs Anil Katiyar, Adv.
Mr. Niraj Jha, Adv.

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

Leave granted. Heard the counsel.

In terms of the signed order, we allow this
appeal, set aside the order dated 10.1.2008 and remand
the matter to the High Court for fresh consideration and
disposal in accordance with law. It is needless to say
that as a consequence of setting aside the order of the
High Court, all actions taken in pursuance of the said
order will be ineffective. We make it clear that nothing
above shall be considered to be expression of any opinion
on the merits of the case.

(Ravi P. Verma) (M.S. Negi)
Court Master Court Master

[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1326 OF 2010
[Arising out of SLP(Crl) No.3797 of 2008]

VANDANA CHOUDHARY @ VANDANAAPPELLANT
SHOKEEN

Versus

COL. RAGHUBIR SINGH & ORS.RESPONDENTS

O R D E R

Leave granted. Heard the counsel.

2. The appellant, a resident of United States, married the son of respondents 1 and 2 at Delhi on 19.10.2004. Immediately thereafter, on 21.10.2004, the appellant left for USA. An FIR was registered at the instance of the appellant on 19.10.2007 with the Paschim Vihar Police Station, West Delhi alleging commission of an offence punishable under Section 406 read with Section 34 IPC against her husband, parents-in-law, sister-in-law and her daughter.

3. Respondents 1 to 4 (parents, sister and sister's daughter of appellant's husband) filed a petition under Section 482 CrPC for quashing the said FIR No. 744/2007. They contended that both appellant and her husband are residing in United States of America and on account of their differences, a false complaint was lodged at Delhi to harass the family members of her husband. It was contended that the complaint was not even signed or submitted by appellant. They pointed out that as the appellant stayed hardly for one and half days in India after the marriage, the allegations against them cannot be true and were false and motivated.

4. In the said petition under Section 482 CrPC, the State was impleaded as the first respondent and the complainant-appellant was impleaded as the second respondent. A learned single Judge of the Delhi High Court, by the impugned order dated 10.1.2008, disposed of the said writ petition directing transfer of the FIR from the Paschim Vihar Police Station, New Delhi to the jurisdictional Police Station at Alwar, Rajasthan for further investigation, on the following reasoning:

"It is conceded by learned counsel for the State that in so far as the petitioners are

concerned, no offence has been committed within the jurisdiction of Delhi. It is, however, disputed that the complaint is not genuine and that somebody else on behalf of the complainant has filed the complaint with a view to harass the petitioners."

The impugned order was passed by the High Court, when the case came up for preliminary hearing, without notice to the appellant who was the second respondent therein.

5. Suffice it to notice that a petition under Section 482 CrPC for quashing the FIR registered at the instance of the appellant could not have been disposed of without issuing notice to her, though she had been impleaded as the second respondent. On this limited ground, the order of the High Court is liable to be set aside.

6. We, therefore, allow this appeal, set aside the order dated 10.1.2008 and remand the matter to the High Court for fresh consideration and disposal in accordance with law. It is needless to say that as a consequence of setting aside the order of the High Court, all actions taken in pursuance of the said order will be ineffective. We make it clear that nothing above shall be considered to be expression of any opinion on the merits of the case.

.....J.
(R.V. RAVEENDRAN)

New Delhi;
July 23, 2010.

.....J.
(H.L. GOKHALE)