

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).4937/2004

(From the judgment and order dated 10/03/2004 in CRLR No. 19/1999 of The HIGH COURT OF GAUHATI AT AGARTALA)

SELINA AKHTAR

Petitioner(s)

VERSUS

MATIUR RAHAMAN

Respondent(s)

Date: 13/07/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE A.K. MATHUR

For Petitioner(s)

Ms. S. Janani, Adv.

For Respondent(s)

Mr. Rituraj, Adv.

Mr. Navin Prakash, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

Leave granted.

The appeal is allowed, impugned order rendered by the High Court

is set aside and the same passed by the Sessions Court fixing the mahar amount at Rs. 50,000/- and giving consequential directions for return of the ornaments is restored.

[Charanjeet Kaur]
[Navin Prakash]

[Om P]

Court Master

Court

Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2005

(arising out of SLP(C) NO. 4937/2004)

Appellant(s) Selina Akhtar .. Appe

Versus

Respondent(s) Matiur Rahaman .. Resp

O R D E R

Heard learned counsel for the parties.

Leave granted.

Learned Chief Judicial Magistrate passed an order on 12.11.1997 directing the

respondent to pay Rs. 10,000/- on account of Mahar. Against said order when the Sessions

Court was moved by the appellant, that application was allowed, order passed by the trial

Court set aside and it was directed that the appellant shall be entitled to Mahar amount to the

amount of Rs. 50,000/- on the basis of evidence adduced on behalf of the appellant that at the time

of marriage the mahar amount was fixed at 49,999/-. It further directed to return all the

ornaments. Against said order when the High court was moved, by the impugned order, the

abovesaid order passed by the revisional Court has been set aside and that passed by the trial

Court restored on the grounds inter alia that the revision application was barred by limitation

and counsel for the appellant having accepted the amount awarded by the trial

Court, the appellant was estopped from challenging order of the trial Court before the higher

Court. Against said order, the present appeal by special leave has been filed.

Having heard the parties and perused the impugned order, we are of the view that

though according to the High Court there was only two days' delay in moving the Sessions

court but as a matter of fact there was eight days' delay in filing the same. In the facts and

circumstances of the case, we are of the view that the High Court was not justified in setting

aside the order of the Sessions Court on this ground. Second ground which weighed with the

High Court for setting aside the order of the Sessions Court was estoppel with regard to which

it has been stated on behalf of the appellant that the appellant's counsel accepted the amount

but she has not received the amount. In view of these facts, we are of the view that the High

Court was not justified in setting aside the order on the ground of estoppel. That apart, on

merits as there was credible evidence adduced in the case to the effect that at the time of

marriage, mahar amount was fixed at Rs.49,999/-, we are of the view that Sessions Court

was justified in enhancing the amount from Rs. 10,000/- to 50,000/- and the High Court has

committed an error in reversing the said order.

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Accordingly, the appeal is allowed, impugned order rendered by the High Court is set aside and the same passed by the Sessions Court fixing the mahar amount at Rs.50,000/- and giving consequential directions for return of the ornaments is restored.

.N. AGRAWAL]

.....J[B

[A.K. MATHUR]

.....J

NEW DELHI ,

JULY 13,2005.