

(2012) 02 GAU CK 0065

Gauhati High Court (Imphal Bench)

Case No: Cril. Rev. P. No. 07 of 2009

Shri Laishram Sharat Singh, Smt.
Laishram(O) Amuleima Devi, Shri
Laishram Manoj Singh and Shri
Laishram Chan Singh

APPELLANT

Vs

Smt. Laishram (O) Nomita Devi

RESPONDENT

Date of Decision: Feb. 1, 2012

Hon'ble Judges: Swapan Chandra Das, J

Bench: Single Bench

Advocate: A. Mohindro, Mr. Ajoy Pebam, Mr. T. Rajendra, Mr. Ajit and Mr. Robindro, for the Appellant; N. Kumarjit Singh, Mr. N. Surendrajit Singh, Advocate and Mr. P. Tamphamani Singh, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

S.C. Das

1. Heard learned counsel, Mr. A. Mohindro, appearing for the petitioners, and learned counsel, Mr. P. Tamphamani Singh, appearing on behalf of learned counsel, Mr. N. Kumarjit Singh for the respondent.

2. This revisional application is directed against order dated 31.08.2009, passed by learned Sessions Judge, Manipur East, in Cril. Appeal No.11 of 2008. Learned Sessions Judge, by the impugned order, upheld the order dated 29.12.2008, passed by learned Judicial Magistrate, First Class, Imphal, in Complaint case No.44 of 2008. Learned Judicial Magistrate, First Class by the said order, dated 29.12.2008, allowed the complainant to take back her belongings, particulars of which mentioned in paragraph 8 of the complaint petition before that Court.

3. The brief fact is that respondent, Smt. Laishram(O) Nomita Devi was married to one L. Surajkumar Singh, since deceased, and after marriage they lived and cohabited as husband and wife in the matrimonial home where the petitioners were

also residing. Due to some reasons, the respondent and her husband constructed a separate house but could not shift their belongings from their matrimonial home and in the meantime, husband of the respondent L. Surajkumar Singh expired due to sudden heart attack. The respondent became helpless and when she went to her matrimonial home to bring back her articles but the petitioners restrained her and did not allow her to take back her articles as mentioned in paragraph 8 of the complaint petition filed before the Magistrate. Learned Magistrate, after hearing learned counsels of both sides, by the impugned order, dated 29.12.2008, allowed the petition of the complainant to take back her belongings, as mentioned in paragraph 8 of the complaint petition. The complaint case is still pending as submitted by learned counsels and the order was passed as an interim measure.

4. Learned counsel for the petitioners has submitted that all goods and articles as mentioned in paragraph 8 of the complaint were not belonged to the respondent/complainant and some of the items were fictitious. Learned Magistrate passed the order without verifying the genuinity of the demand made by the complainant. On the other hand, learned counsel, Mr. P. Tampamani has submitted that learned Magistrate has passed the order based on the records placed before the Court and the order has been affirmed by the appellate Court i.e. the Sessions Judge and this revisional Court has nothing to interfere with the order since the order has been passed by a Court of competent jurisdiction.

5. I have meticulously gone through the complaint petition and the impugned orders passed by the learned Magistrate and learned Sessions Judge. In the complaint petition filed by the respondent before the Magistrate, in paragraph 8, she has mentioned as many as 54 items of goods/articles. The Magistrate passed the order, allowing her to take back those goods/articles, as mentioned in paragraph 8 of the complaint petition with the assistance of the Protection Officer and the Officer In-charge of Imphal P.S. The order, so passed by the learned Magistrate and affirmed by the learned Sessions Judge, prima facie, does not suffer from any illegality, impropriety or incorrectness calling for interference by this Court in the revisional application. The only apprehension, as submitted by learned counsel, Mr. Mohendro, is that there are some items, which are totally fictitious and that there are disputed items in the list. Obviously, it is the duty of the learned Magistrate to ensure that the goods and articles belonged to the complainant respondent should be given to her and the learned Magistrate in the process should ensure it. Proper care should be taken so that the articles are in existence and that those belonged to the complainant-respondent, and since the Protection Officer and the Officer In-charge of Imphal P.S. has been directed to ensure compliance of the order, passed by the learned Magistrate, it must be assured that the articles belonged to the complainant respondent are handed over to her and not otherwise.

6. The parties, therefore, are directed to appear before the learned Magistrate by 16.02.2012.

7. With the above observations the revisional application stands disposed of. Send back the L.C. records along with a copy of the order.