

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.804 OF 2017
(ARISING OUT OF SLP(CRL.) NO.8403 OF 2016)

KYNTIEW AKOR SUCHIANGAPPELLANT(S)

VERSUS

WOSTON HYNNIEWTA AND ANR. . . .RESPONDENT(S)

O R D E R

Leave granted.

This appeal has been preferred by the petitioner-wife against the impugned judgment and order dated 23.09.2016 passed by the High Court of Meghalaya in Criminal Revision Petition No.3 of 2016, whereby the High Court allowed the said revision petition and directed the learned Judicial Magistrate, Shillong, to remand the case to the District Council, East Khasi Hills, to adjudicate the matter independently.

The appellant-wife is a tribal belonging to Panar tribe and resident of Jowai, West Jaintia Hills District which falls under the jurisdiction of Jaintia Hills Autonomous District Council. On the other hand, the respondent-husband is a tribal belonging to the East Khasi Hills District which falls under the jurisdiction Khasi Hills Autonomous District Council.

Initially, the appellant-wife filed an application for maintenance under section 125 of the Code of Criminal Procedure (for short, the 'Cr.P.C.') before the learned Judicial Magistrate, Shillong. By order dated 14.03.2016, the learned Magistrate directed the respondent-husband to pay an interim maintenance of Rs.7,000/- in favour of the appellant and issued notice to him. Thereafter, on 02.06,2016, the learned Magistrate, Shillong, rejected the preliminary objection raised by the respondent-husband that the Court of learned Judicial Magistrate, Shillong did not have the requisite jurisdiction to try the matter on account of the fact that the dispute was between two tribal individuals. The respondent-husband challenged the said orders of the learned Magistrate by filing revision petition before the High Court which was allowed in terms of the above. Being aggrieved, the appellant-wife preferred this appeal.

Having heard learned counsel appearing for the parties and upon perusal of the record, we find that the issue of jurisdiction is covered by paragraph (4) under the heading "Provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram" of the Sixth Schedule of the Constitution of India under Articles 244(2) and 275(1), which reads as follows :

"4. Administration of justice in autonomous districts and autonomous regions.- (1) The Regional Council for an autonomous region in

respect of areas within such region and the District Council for an autonomous district in respect of areas within the district other than those which are under the authority of the Regional Councils, if any, within the district may constitute village councils or courts for the trial of suits and cases between the parties all of whom belong to Scheduled Tribes within such areas, other than suits and cases to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply, to the exclusion of any court in the State, and may appoint suitable persons to be members of such village councils or presiding officers of such courts, and may also appoint such officers as may be necessary for the administration of the laws made under paragraph 3 of this Schedule."

(Emphasis supplied)

As a result, a District Council, constituted for the purpose of deciding disputes, has jurisdiction only in respect of tribals who belong to the scheduled tribes within such area for which the said District Council is constituted. It would have no jurisdiction where one of the parties belongs to another area which is under the jurisdiction of another District Council.

Thus, we find that East Khasi Hills District Council would have no jurisdiction to determine the present dispute which is between the appellant-wife who belongs to a tribe of Jaintia Hills District Council and the respondent-husband who belongs to East Khasi Hills District Council. A similar question has been decided by the High Court of Gauhati (Shillong Bench) in Criminal Reference No.1 of 2004 titled as "*State of Meghalaya vs. Richard Lyngdoh*".

In such a situation, the courts constituted under ordinary law, in the instant case the Code of Criminal Procedure, would have jurisdiction.

The orders dated 14.03.2016 and 02.06.2016 passed by the learned Judicial Magistrate, Shillong, in favour of the appellant-wife, were correctly dealt with by the High Court. However, the direction of the High Court given to the learned Magistrate to remand the matter to the District Council, East Khasi Hills, for fresh adjudication, is not warranted, since both the parties are tribals belonging to two different areas. The aforesaid orders of the learned Magistrate can only be questioned before the appropriate court constituted under the ordinary law and which is admittedly the District Court at Shillong, for deciding the dispute under section 397(1) and (2) of the Cr.P.C.

Hence, we partly allow this appeal, uphold the direction of remand given by the High Court vide its impugned judgment and order, but modify it to the extent that the matter shall stand remanded to the District and Sessions Judge, Shillong.

In the meantime, the respondent-husband shall pay interim maintenance of Rs.7,000/- (Rupees seven thousand only) to the appellant-wife, as directed by the learned Judicial Magistrate, Shillong.

Learned Judicial Magistrate, Shillong, shall direct the payment of arrears of interim maintenance which was not paid by the respondent to the appellant-wife, by way of interim order.

.....J
[S. A. BOBDE]

.....J
[L. NAGESWARA RAO]

NEW DELHI;
APRIL 26, 2017.

ITEM NO.5

COURT NO.8

SECTION II

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

Petition(s) for Special Leave to Appeal (Crl.) No(s).8403/2016

(Arising out of impugned final judgment and order dated 23/09/2016 in CRLRP No.3/2016 passed by the High Court Of Meghalaya At Shilong)

KYNTIEW AKOR SUCHIANG

Petitioner(s)

VERSUS

WOSTON HYNNIEWTA AND ANR.

Respondent(s)

(With interim relief and office report)

Date : 26/04/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE

HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Ms. Liz Mathew, Adv.
Mr. M.F. Philip, Adv.

For Respondent(s) Mr. Imtiaz Ahmed, Adv.
Mrs. Naghma Imtiaz, Adv.
Mr. Ahmed Zargham, Adv.
Mr. Kynpham, Adv.
For M/s. Equity Lex Associates

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

Leave granted.

The appeal is partly allowed in terms of the signed order.

(Sanjay Kumar-II)
Court Master

(Indu Pokhriyal)
Court Master

(Signed Order is placed on the file)