

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRL.M.P. NO. OF 2017

IN

S.L.P. (CRL.) NO. 5777 OF 2017

**IN THE MATTER OF:**

SHAFIN JAHANS ...PETITIONER

VERSUS

ASOKAN K. M. & ORS. ...RESPONDENTS

**AND IN THE MATTER OF:**

- 1. Shaela Devi, Advocate,  
Former Vice President,  
Kerala High Court Advocates' Association  
W/o. Late Rajendran Pillai  
Metro Plaza, 3<sup>rd</sup> Floor,  
Market Road North,  
Ernakulam, Kerala - 682 018.
  - 2. Keerthi Solomon, Advocate,  
D/o. G. Solomon  
House No. 136,  
St. Benedict Road,  
Ernakulam, Kerala - 682 018.
  - 3. Vishnu Jayapalan, Advocate,  
S/o. Jayapalan  
Advaith, Kaloor,  
Ernakulam, Kerala - 682 017.
- Applicants

2

**AN APPLICATION FOR IMPLEADMENT**

TO,

THE HON'BLE CHIEF JUSTICE AND  
HIS COMPANION JUSTICES OF THE  
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE APPLICATION OF THE  
APPLICANTS ABOVE NAMED:

**MOST RESPECTFULLY SHEWETH:**

1. The above Special Leave Petition is filed by Mr. Shafin Jahan challenging the Judgment dated 24.05.2017 passed by the Hon'ble High Court of Kerala in Writ Petition (Criminal) No. 297 of 2016. By the impugned Judgment, the Hon'ble High Court allowed the Writ Petition filed by the 1<sup>st</sup> Respondent herein and he was granted custody of his daughter. The Petitioner herein claims to be the husband of the daughter of the 1<sup>st</sup> Respondent.
2. The impleading Applicants wish to bring to the notice of this Hon'ble Court the circumstances in which the impugned Judgment was passed and also what happened after passing of the impugned Judgment. After the impugned Judgment was passed, a tense atmosphere of violence was created in the state by certain groups including organizations called the Social Democratic Party of India and Muslim Ekopana Samiti. The Petitioner herein is admittedly an active member of Social Democratic Party of India and it is observed by the Hon'ble High Court that

3

there are sufficient material available that either members of the SDPI, the National Front or one or the other of its sister organizations acting from behind the curtains controlling in this case.

3. The Judgment was passed on 24.05.2017 by the Division Bench of His Lordship Hon'ble Mr. Justice K. Surendra Mohan and His Lordship Hon'ble Mr. Justice K. Abraham Mathew. The Judgment was authored by His Lordship Hon'ble Mr. Justice K. Surendra Mohan who pronounced it. Immediately on pronouncement, reactions were posted on social networking sites attacking the Judiciary, in particular the Hon'ble Judges who authored the Judgment. Posters all over the State appeared at various parts of the State attacking the Judiciary. There were protests in different part of the State. One such protest march was staged on 29.05.2017 near the Hon'ble High Court by a group called Muslim Ekopana Samiti. The protest march started from the Judges' Avenue, Kulloor, Ernakulam (near residence of many Hon'ble Judges of the Hon'ble High Court of Kerala) and was headed towards the High Court building. The protesters, thousands in number, turned violent, blocked vehicular traffic, broke police barricade and clashed with and injured policemen. Ultimately police had to use tear gas, water cannons and resort to lathi charge to stop the violent protesters from entering the High Court building.

4

4. Once the protest march was stopped at meters away from the High Court building, the leaders of the protest march spoke over loudspeaker abusing, slandering and threatening the Judiciary. Threats and contemptuous statements were issued over loudspeakers from only meters away from the High Court building. Lawyers passing by were also abused and threatened. Threat was issued to His Lordship Hon'ble Mr. Justice K. Surendra Mohan, addressing His Lordship by the first name that this Lordship's kitchen will be attacked, which colloquially means that family will be targeted. His Lordship was called a devil and that His Lordship's chair will be dragged to the street. Venom was spewed to stroke communal passions by saying that Muslim youth are being sent for slaughter by the Judge and that the number of protesters are much more than the number of policemen and that policemen will be helpless if instructions to attack are given. All these statements were made over loudspeaker while standing on a police vehicle. Importantly, had the protesters not been stopped, they might have physically attacked the High Court building while courts were functioning.

5. The next day i.e. on 30.05.2017 a *bandh* was declared in Ernakulam District purportedly in protest against alleged police violence against the protesters the previous day. The intention was to pressurize police to not act against culprits behind the incident. Those how declared

5

the *bandh* succeeded, in as much as out of thousands who were part of the violent mob, cases were registered only against 17 persons or so, on rather minor charges. These incidents were covered by media. A true copy of the photographs of the protest on various sites is produced herewith marked as ANNEXURE A-1. (Pages 10 - 15)

6. The Kerala High Court Advocates Association strongly condemned the aforesaid happenings of 29.05.2017. A resolution was passed by the Kerala High Court Advocates Association condemning the aforesaid happenings of 29.05.2017 and seeking initiation of contempt of court action against those who threatened the Judiciary. A true copy of the resolution moved by the Secretary Kerala High Court Advocates Association, dated 31.05.2017 is produced herewith and marked as ANNEXURE A-2. (Page 16)

7. The Sanction Petition filed by one of the Advocate practicing in the High Court of Kerala seeking sanction from the Advocate General of the State for initiating of contempt of court proceedings against those involved in the aforesaid incidents of 29.05.2017 is gathering dust in the office of the Advocate General of the State.

8. The above mentioned incidents show that what happened with the daughter of the 1st Respondent is not a stray incident to be viewed independent of the situation in the state of Kerala. The above incidents show that the

issue involved in the Special Leave Petition has multiple facets and any decision therein will have wide ramifications. There are strong, organized forces behind those who are now claiming to be aggrieved by the impugned Judgment. Large number of cases involving similar issues are coming before the Hon'ble High Court. There is a concerted effort to threaten and dissuade Judiciary in the State from giving justice to persons like the 1<sup>st</sup> Respondent. Lawyers who are involved in such cases feel insecure. The state police has failed to properly investigate the matter. This is a fit case for an investigation by the National Investigative Agency.

9. In such circumstances, the Applicants herein pray that they may be permitted to implead themselves in the present Special Leave Petition and place some relevant facts and materials before this Hon'ble Court, necessary for adjudication of the issues involved in the case. It is further submitted that any orders passed by this Hon'ble Court in the above SLP will have a direct impact on the interest of this Applicants and hence this Hon'ble Court may be pleased to allow this Application and the Applicants be heard before any orders are passed in the above Petition.

10. In the circumstances, this Hon'ble Court may be pleased to allow the Applicants to implead themselves as party Respondents in the above mentioned Special Leave Petition.

PRAYER

7

In these circumstances, the Applicants pray that your Lordships may graciously be pleased to:

- a) Allow the Applicants to implead themselves as party Respondents in the above mentioned Special Leave Petition (Crl) No. 5777 of 2017;
- b) Pass such other or further orders as may be deemed fit and proper in the facts and circumstances of the case.

DRAWN & FILED BY

SWARUPAMA CHATURVEDI  
ADVOCATE FOR THE APPLICANTS

DRAWN ON: 11.08.2017

FILED ON: 06.10.2017