

Federal Court



Cour fédérale

Date: 20120105

Docket: IMM-9239-11

Citation: 2012 FC 20

Ottawa, Ontario, January 5, 2012

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

MOSAMMAT MONOWARA KHATUN

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION AND
THE MINISTER OF PUBLIC SAFETY
AND EMERGENCY PREPAREDNESS**

Respondents

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is a motion to stay the execution of a removal order, scheduled for January 8, 2012.

[2] The Applicant fears the abuse of her husband (a Bangladeshi, who lives in Italy) and also of his family (who reside in Bangladesh and, allegedly, also have ties with militants in Afghanistan).

[3] Allegedly, because the Applicant is unable to bear children, she has brought shame on her husband and his family; therefore, the Applicant fears for her life.

[4] Although the Court recognizes that the Applicant may be at risk in Bangladesh (such as clearly described in the provided Country references), she could have claimed asylum in Italy, or in Spain, where her brother was allegedly granted asylum. Yet, nevertheless, she allegedly feared (for life and limb) being in too close proximity to her husband.

[5] In respect to the significant new evidence gathered six years subsequent to the Refugee Protection Division decision, the Court understands that certain details may not have been included in the situation-report in respect of the Applicant by a lawyer in Bangladesh of whom a report had been requested and even by the Applicant's psychologist to minimize the information given for the Applicant's safety, as women have been at risk in such situations where details have been divulged.

[6] For all the above reasons, the criteria of the tripartite conjunctive test in *Toth v Canada (Minister of Employment and Immigration)* (1988), 86 NR 302 (FCA) have been met in favour of the Applicant, recognizing that the matter should at least be heard in depth, and, thus, analyzed in the context of judicial review.

[7] Therefore, the stay of execution of the removal order is granted until the review in respect of the Pre-Removal Risk Assessment [PRRA] is determined.

JUDGMENT

THIS COURT ORDERS that the stay of execution of the removal order be granted until the judicial review be determined.

N.B. (Reference was also made to Khaled Hosseini's "A Thousand Splendid Suns", which has been acclaimed to have well-documented in this context the practices of serious abuses of women, who have been unable to bear children, at a risk to life and limb).

"Michel M.J. Shore"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-9239-11

STYLE OF CAUSE: MASAMMAT MONOWARA KHATUN v
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION AND THE MINISTER OF PUBLIC
SAFETY AND EMERGENCY PREPAREDNESS

**MOTION HELD VIA TELECONFERENCE ON JANUARY 5, 2012 FROM OTTAWA,
ONTARIO AND TORONTO, ONTARIO**

**REASONS FOR JUDGMENT
AND JUDGMENT:** SHORE J.

DATED: January 5, 2012

ORAL AND WRITTEN REPRESENTATIONS BY:

Munyonzwe Hamalengwa FOR THE APPLICANT

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