

GAHC010095142022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3342/2022

AMIR ALI MONDAL
S/O- LT. SAMSUL HOQUE MONDAL, H/O- LT. SUKJAN BIBI, VILL.-
CHESAPANI (KAMALCHARA), P.O. MAGURMARI, P.S.- KOKRAJHAR, DIST.-
KOKRAJHAR, BTR, ASSAM, PIN- 783370.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE (RELIEF AND REHABILITATION) AND DISASTER
MANAGEMENT DEPARTMENT, DISPUR, GUWAHATI-06.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-06.

3:THE DEPUTY COMMISSIONER
KOKRAJHAR
BTR
ASSAM. P.O. AND P.S. AND DIST- KOKRAJHAR
BTR
ASSAM
PIN- 783370.

4:THE SUPERINTENDENT OF POLICE
KOKRAJHAR
P.O. AND P.S. AND DIST.- KOKRAJHAR
ASSAM
PIN- 783370.

5:THE OFFICER-IN-CHARGE

KOKRAJHAR
P.O. AND P.S. AND DIST- KOKRAJHAR
BTR
ASSAM
PIN- 783370.

6:THE CIRCLE OFFICER
KOKRAJHAR REVENUE CIRCLE
P.O. AND P.S. AND DIST.- KOKRAJHAR
ASSAM
PIN- 783370

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : SC, REVENUE

B E F O R E
HON'BLE MR. JUSTICE KARDAK ETE

29.04.2024

Heard Mr. M. Hussain, learned counsel for the petitioner. Also heard Ms. N. Bordoloi, learned counsel for the respondent no. 1 and Mr. B. Gogoi, learned Standing Counsel, Finance and Taxes Department for the respondent no. 2 and Ms. S. Baruah, learned Govt. Advocate for the respondent nos. 3, 4 and 5.

2. This petition has been filed for a direction to the respondent authorities to provide an ex-gratia of Rs. 5,00,000/- to the petitioner, being the next of kin of Late Sukjan Bibi, in terms of the office Memorandum dated 15.11.2014.

3. The petitioner is the husband of late Sukjan Bibi. It is stated that on 12.01.2020 Late Sukjan Bibi had left the home and went to the resident of one Sukur Ali and Badsha Sheikh. When she did not return home, the petitioner

made a call and found her mobile switch off. Thereafter, the petitioner started searching her and one Abbas Ali Sheikh came to his home and informed that he has seen the dead body which was lying about 50 meters away from the house of Sukur Ali and Badsha Sheikh. It is also stated that the gold ornaments as well as the mobile phone were also taken away.

4. The petitioner has lodged an FIR on 13.01.2020 stating that the facts narrated above. Accordingly, the post-mortem was conducted and the case was registered being Kokrajhar P.S. Case No. 26/2020, under Section 302 IPC.

5. The Superintendent of Police, Kokrajhar, for the respondent no. 4, has filed an affidavit, which shows that investigation in connection with the aforesaid case is still under progress so as to ascertain the cause of death of the wife of the petitioner. Having considered the affidavit filed by the respondent no. 4, this Court on 09.08.2023 has directed the respondents to place the status report on the stage of investigation as the cause of the death of the deceased will have a relevant bearing on the claim for ex-gratia compensation in the present matter.

6. During the course of hearing, Ms. S. Baruah, learned State Counsel place the instruction dated 18.08.2023 as sought for by this Court. On the perusal of the instruction placed on record by the learned State Counsel, it reveals that during the investigation nothing has been found and the motive of the murder could not be ascertained. Accordingly, the Investigating Officer has submitted the final report as no clue of the death could be found vide FR No. 20/2023.

7. Mr. M. Hussain, learned counsel for the petitioner submits that as per the office Memorandum dated 15.11.2014, since, the petitioner is the husband who is the next of kin is entitled to be provided for an ex-gratia amount of Rs. 5,00,000/- which falls under serial No. 1, wherein, it is provided that the ex-

gratia grant to the next of kin of persons killed and whose (the persons killed) age is 18 years or above by miscreants as per the report of the police that the killing is not as a result of private dispute. Therefore, he prays for a direction to pay the ex-gratia of Rs. 5,00,000/- to the petitioner.

8. The learned counsel for the state respondents fairly submits that since the police could not establish and found any clue regarding the culprits, under Section 302 IPC and has concluded by filing the final report, there may not be any bar to grant the ex-gratia as claimed by the petitioner in terms of the office memorandum dated 15.11.2014.

9. I have considered the submissions of the learned counsel for the petitioner and also perused the materials available on record including the communication dated 18.08.2023 placed on record by the learned counsel for the State respondents.

10. It is not disputed that the wife of the petitioner namely, Sukjan Bibi was killed by the miscreants. The case was registered being Kokrajhar P.S. Case No. 26/2020, under Section 302 IPC and the investigation is completed. However, no clue regarding culprits could be found by the investigating officer and the case has been concluded by filing final report.

11. This Court finds that the contents of the FIR, shows that the late wife of the petitioner had left home and went to the resident of Sukur Ali and Badsha Sheikh for recovery of amount of Rs. 12,000/- and Sali paddy, which indicates that the dispute appears to be private in nature. However, since the police could not establish such dispute and found the culprit for offence under 302 IPC, this Court is of the view that the petitioner is entitled for ex-gratia amount in terms of the office memorandum dated 15.11.2014, as it is clearly provides that an ex-

gratia grant to the next of kin of persons killed and whose (the persons killed) age is 18 years or above by miscreants as per the report of the police, the killing is not a result of private dispute.

12. As noted above, the police report reveals that the killing of the wife of the petitioner is by miscreants and it could not be established that the killing of the deceased wife of the petitioner was due to private dispute.

13. In view of above, this Court is of the view that the petitioner is entitled to the amount of Rs. 5,00,000/- as an ex-gratia amount in terms of the notification dated 15.11.2014. Accordingly, the writ petition stands disposed of with a direction to the respondent authorities to verify the documents of the petitioner and in the event it is found in order, an amount of Rs. 5,00,000/- to the petitioner as ex-gratia grant within a period of 3(three) months from today.

14. With the above observation and direction, this writ petition stands allowed and disposed of. No order as to cost.

JUDGE

Comparing Assistant