



3.6

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 414 of 2015

1. Smt. Arifa Begam W/o Riyajuddin Sheikh, aged about 25 years, Caste-Musalman, R/o Mahavirpara, Gandhi Ward No.18, Dongargarh, Post Dongargarh, Police Station and Tahsil Dongargarh, District Rajnandgaon, Chhattisgarh

--- Petitioner

Versus

1. Ishraiel Sheikh S/o Badashu Sheikh, aged about 31 years, R/o Village- Indira Nagar (Manatola), Police Station- Mohla, District- Rajnandgaon, Chhattisgarh
2. Smt. Fajila Begam W/o Badashu Sheikh, aged about 45 years R/o Village- Indira Nagar (Manatola), Police Station- Mohla, District- Rajnandgaon, Chhattisgarh
3. Merina Begam D/o Badashu Sheikh, aged about 45 years, R/o Village- Indira Nagar (Manatola), Police Station- Mohla, District- Rajnandgaon, Chhattisgarh
4. Badashu Sheikh S/o Late Mohammad Saleem Sheikh, aged about 53 years, R/o Village- Indira Nagar (Manatola), Police Station- Mohla, District- Rajnandgaon, Chhattisgarh
5. State Of Chhattisgarh, through the Police Station Mohla, District- Rajnandgaon, Chhattisgarh

--- Respondents

For Petitioner – Mr. Pushpendra Kumar Patel, Advocate.

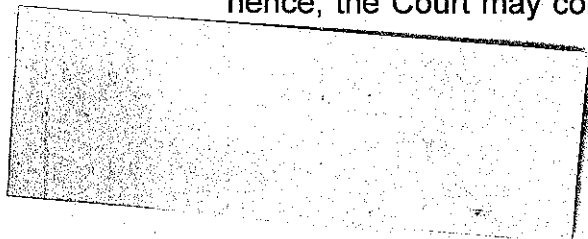
For Respondent No.5 – Ms. Shobha Kashyap, Deputy Govt. Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

16/06/2015

- (1) Heard on admission.
- (2) Also heard I.A.No.1/15 for condonation of delay in filing this criminal revision and maintainability of this criminal revision.
- (3) Learned counsel for the petitioner submits that mistake of the petitioner for not filing the present criminal revision within time is bonafide, hence, the Court may condoned the delay and hear the revision on its

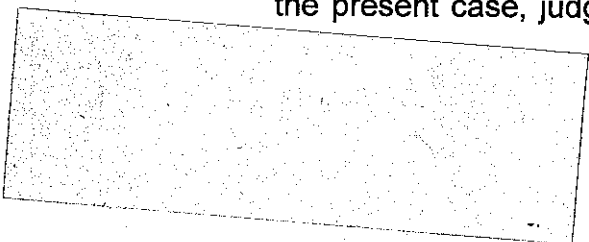


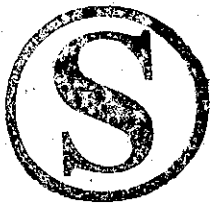
merit.

- (4) Regarding the maintainability, learned counsel for the petitioner submits that petitioner Smt. Arifa Begam is a victim as she is mother of deceased Sadika Begam thereby she had a right to challenge the impugned judgment passed by the Additional Sessions Judge (FTC), Rajnandgaon, C.G. in Sessions Trial No.06/2013 vide judgment dated 02-12-2014 wherein no compensation was awarded by the trial Court to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced under the provisions of Section 357 (3) of the Code of Criminal Procedure, 1973 (in brevity 'the Code').
- (5) On the other hand, learned counsel for the respondent/State opposed the argument submitted by the appellant and submits that under the provisions of Section 397 read with Section 401 of the Code, the legality, correctness or propriety of any finding, sentence or order recorded or passed or any irregularity committed by the inferior court has to be examined. In the present case, the petitioner may not be held as a sole victim as defined under Section 2(wa) of the Code. There is no mention that why the father who may also fall under the category of victim was not made party. Besides this, in the present case, proviso of Section 372 of the Code is applicable because the trial Court not examined the factum of compensation, broadly to say, no any compensation awarded by the trial Court and for this part only the appeal lies under proviso of Section 372 of the Code not revision. Learned counsel for the State/respondent submits that the revision filed is not maintainable, hence, it may be dismissed.
- (6) By considering the factum of maintainability, condonation of delay in filing the criminal revision and admission, the Court perused the entire

record of the case.

- (7) On close scrutiny, it emerges that as in the definition of Section 2(wa) of the Code, technically, father also falls under the category of victim except in specific facts there is no mention of any fact why the father is not made co-petitioner in the petition. Also there is no mentioning of the facts as to how the present petitioner suffered any loss or injury by the death of the daughter of the petitioner namely Sadika Begam, unless the sufferance of any loss or injury pleaded in the petition, it may not be technically held that sufferance, loss or injury are caused. The petitioner was required to mention as to how she suffered any loss or injury with the death of her daughter, thereafter only she may come under the category of victim. Merely being a mother she may not fall technically under the category of victim. Also why father is not made co-petitioner, for not mentioning the reasons for not making him a party also affects the case of the petitioner adversely. Besides this, the whole petition based on the fact that compensation not awarded by the trial Court, hence as prayed on behalf of the petitioner that by allowing this revision petition order/recommendation to grant compensation may be passed. The judgment of the trial Court is not challenged on the basis of any incorrectness, illegality or impropriety in the finding, sentence or order. Also there is no challenge regarding any irregularity in the proceeding thereby scope to file a revision under the category of victim is not attracted. So far as proviso of Section 372 of the Code are concerned, victim has a right to prefer an appeal against the imposition of inadequate compensation. Imposition of inadequate compensation, by interpretation, includes no imposition of compensation. Though in the presence of factum regarding issuance of compensation are present, in the present case, judgment passed by the Additional Sessions Judge,





against the order ordinarily the appeal lies as per proviso of Section 372 of the Code are concerned. With this also, the instant revision is not maintainable. Also with the fact that delay of 72 days are not duly explained, this Court is of the view that as the revision is filed by the petitioner with a delay of 72 days and in the presence of above mentioned facts and circumstances, the revision is not maintainable. Consequently, the revision filed being devoid of merit is hereby dismissed at the motion stage itself.

Sd/-
Chandra Bhushan Bajpai
Judge

Aadil