

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 664 of 2015**

Mathura Prasad Kashyap, S/o Chhedilal Kashyap, Aged about 57 years, R/o Sector-2, Ganga Nagar, Vill and Post Mangla, P.S. - Civil Lines, Bilaspur, Revenue & Civil – Bilaspur, Tahsil & District – Bilaspur (C.G.)

---- **Petitioner****Versus**

Ajay Kumar Gupta, aged about 39 years, S/o Late Ratan Lal Gupta, R/o Shesh Caloney, Vinoba Nagar, P.S.- Tarbahar, Bilaspur, Tehsil & District Bilaspur (C.G.)

---- **Non-applicant**

For Applicant: Mr. Mukesh Sharma, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board**27/08/2015**

Heard.

(1) By the impugned order, appellate Court while admitting the appeal for final hearing, suspended substantive jail sentence and also partly stayed the order granting compensation by directing that if the amount of Rs.1,00,000 is deposited, then that substantive jail sentence shall remain suspended.

(2) Learned counsel for the applicant submits that since the appeal has been admitted for final hearing and substantive jail sentence has been suspended and, therefore, appellate Court could not have directed the deposit of Rs. 1,00,000 while granting application. He placed reliance upon the judgment of Supreme

Court in case of Sarwan Singh and others Vs. State of Punjab, reported in (1978) 4 SCC 111 in support of his case.

(3) I have heard counsel for the applicant and perused the order impugned with utmost circumspection.

(4) It is well settled that consideration by criminal court to grant compensation to the victim of a crime is mandatory and there exist a mandatory duty on the court to apply its mind to the question in every criminal cases and grant of compensation to the victim is equally a part of sentence. Very recently in a decision reported in State through C.B.I., Anti Corruption Branch, Chandigarh Vs. Sanjiv Bhalla & another, JT 2014 (8) SC 593 their Lordships of Supreme Court has clearly held that grant of compensation is a part of just sentencing and held as under:

“31(c). The grant of compensation to the victim of a crime is equally a part of just sentencing;

(d). When it is not possible to grant compensation to the victim of a crime, the Trial Judge must record his or her reasons;”

(5) In view of the aforesaid decision Sanjiv Bhalla & another (supra), this Court is of the opinion, order granting suspension subject to certain conditions is discretionary order, which cannot be interfered with in the instant revision by this Court under its revisional jurisdiction.

(6) Accordingly, the revision fails and is hereby dismissed.

Sd/-
(Sanjay K. Agrawal)
Judge

