

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.3211 of 2004

Date of Decision.20.05.2015

Kanwar Sain and another

.....Petitioners

Versus

Smt. Sukhpreet Kaur and others

.....Respondents

Present: Mr. Jasbir Singh, Advocate for
Mr. J.S. Mannipur, Advocate
for the petitioners.

Mr. Sandeep Khunger, Advocate
for respondent Nos.1 to 4.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ? Yes
2. To be referred to the Reporters or not ? Yes
3. Whether the judgment should be reported in the Digest? Yes

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K. KANNAN J. (ORAL)

1. A suit for compensation for ₹ 6,72,000/- was sought by the legal representative of a person, who was murdered by the defendants. The defendants were serving a sentence for murder for offence under Section 302 IPC and the suit summons had been served through the warden on the defendants. The defendants did not choose to contest the case and the suit was decreed ex parte. An application to set aside the ex parte filed was dismissed. The appeal was also dismissed. The revision is against that order.

2. Before arguments got underway, considering the fact that the defendants had been served but could not take steps to defend themselves in Court, I asked the counsel by the petitioners to take instruction of whether they would be prepared to deposit ₹ 5 lacs as

condition precedent for consideration for a contest on merits. This was stated in the context of the change in law that has come about under Section 357-A Cr.P.C providing for victim compensation scheme. This has been explained by the Supreme Court in Suresh Vs. State of Haryana AIR 2015 SC 518 referring to a mandate of payment of ₹ 5 lacs and the change in law that brings a focus on plight of a victim the same way as a fair trial is possible for persons accused of any criminal offence. The counsel took time at the previous hearing on 04.03.2015 and informs now that he is unable to secure any compliance. The counsel is seeking for right of defence by trial that offers limited scope of contest. It cannot be unconditional. Since the two Court below have found that there was no valid justification for not taking steps and the petitioners are not prepared to make the position better for themselves for securing an opportunity to contest on condition of deposit, I do not think that the petitioners must be given any discretionary intervention at the stage of revision.

2. The orders passed already are maintained and the civil revision is dismissed.

(K. KANNAN)
JUDGE

May 20, 2015
Pankaj*