

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 218 of 2016 (O&M)

Date of decision : 8.1.2016

Ramphal Yadav

.... Petitioner

VS

State of Haryana and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Arun K. Bakshi, Advocate, for the petitioner.

Rajesh Bindal, J.

The petitioner has approached this Court impugning the order dated 6.5.2015 passed by the Secretary, District Legal Services Authority, Narnaul, whereby the application filed by him for grant of compensation under Section 357(A) Cr. P.C., was rejected and order dated 7.10.2015, passed in appeal against the aforesaid order by the Member Secretary, Haryana State Legal Services Authority-cum-Appellate Authority, upholding the order passed by the District Legal Services Authority.

Learned counsel for the petitioner submitted that son of the petitioner was murdered. FIR No. 301 dated 14.10.2013 was registered at Police Station Kanina, District Narnaul. After the trial, the accused were convicted by the learned Additional Sessions Judge, Narnaul, vide judgment dated 13.3.2015 and vide order dated 17.3.2015, they were sentenced to undergo life imprisonment with fine. In the judgment, the learned Additional Sessions Judge directed that the amount of compensation recovered from the convicts will be paid to the parents of the deceased as compensation. The petitioner filed application on 30.3.2015 before the Secretary, District Legal Services Authority, Narnaul, for grant of compensation under Section 357(A) Cr.P.C. in terms of the Haryana Victim Compensation Scheme, 2013 (hereinafter to be referred as, 'the Scheme'). The application was dismissed vide order dated 6.5.2015. The order was upheld in appeal. The submission is that once son of the petitioner was

murdered and the accused were even convicted, the petitioner deserved to be paid compensation as a victim. The denial of that cannot be legally sustained.

Heard learned counsel for the petitioner and perused the paper book.

To appreciate the contention being raised by learned counsel for the petitioner, it would be relevant to refer relevant provisions of Section 357(A) Cr.P.C., which are extracted below:-

“357A. Victim compensation scheme. - (1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

(6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit."

Clauses 4 and 5(1) of the Haryana Victim Compensation Scheme, 2013, being relevant are also extracted below:-

"4. (1) A victim shall be eligible for the grant of compensation where,--

- (a) a recommendation is made by the Court under sub section (2) and (3) of section 357-A of the Act of the offender is not traced or identified, and where no trial takes place, such victim may also apply grant of compensation under sub-section (4) of section 357-A of the Act;
- (b) the victim/ claimant reports the crime to the officer-in-charge of the police station or any senior police officer or Executive Magistrate or Judicial Magistrate of the area within 48 hours of the occurrence:

Provided that the District Legal Service Authority if satisfied for the reasons to be recorded in writing, may condone that delay in reporting;

- (c) the offender is traced or identified, and where trial has taken place, the victim/claimant has cooperated with the police and prosecution during the investigation and trial of the case;
- (d) The Income of the family should not exceed Rs. 4.5 Lac per annum;
- (3) The Crime on account of which the compensation which to be paid under this scheme should have

been occurred within the jurisdiction of Haryana State.

- (2) The employees of Central/ State Government, Boards Corporations and Public Undertakings and income tax payees shall not be eligible under this scheme.

5. (1) Whenever a recommendation is made by the Court under sub-section (2) of section 357-A of the Act or an application is made by any victim or his dependent under sub-section (4) of section 357-A of the Act to the District Legal Services Authority shall examine the case and verify the contents of the claim with regard to the loss or injury caused to victim and arising out of the reported criminal activity and may call for any other relevant information necessary in order to determine genuineness of the claim. After verifying the claim and by conducting due enquiry, the District Legal Service Authority, the District Legal Services Authority shall award compensation within two months, in accordance with provisions of this scheme.”

A perusal of the Section 357(A)(2) Cr.P.C. provides that wherever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority shall decide the quantum of compensation to be awarded under the Scheme referred to in sub-section (1).

Sub-section (1) of Section 357(A) Cr.P.C. envisages preparation of a scheme by every State Government in co-ordination with the Central Government for providing funds for the purpose of grant of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

Sub-section (3) of Section 357(A) Cr.P.C. provides that if the trial court, at the conclusion of the trial, is satisfied that the compensation awarded under Section 357 is not adequate for such rehabilitation or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

Sub-section (4) of Section 357(A) of Cr.P.C. envisages a situation where an application can be filed by a victim or his dependent directly to the State or the District Legal Services Authority for award of compensation i.e. where the offender is not traced or identified and where no trial takes place.

Sub-sections (5) (6) of Section 357(A) Cr.P.C. provides for procedure for assessment of compensation.

Clauses 4 and 5 of the Scheme are also in line with what has been provided in Section 357(A) Cr.P.C.

If the case of the petitioner is considered in the light of the provisions in Cr.P.C., there is no error in the order passed by the authorities below. It is not in dispute that no recommendation has been made by the trial Court at the time of conclusion of trial opining that the compensation being awarded under Section 357 Cr.P.C. was not adequate and as a result thereof, the recommendation is made to the State or the District Legal Service Authority for awarding more compensation. It is not a case where the petitioner could move an application for seeking compensation to the District Legal Service Authority directly as the case of the petitioner does not fall within the four corners of Section 357(A)(4) Cr.P.C. as in the case in hand, the accused were identified, tried and even convicted.

In view of my aforesaid discussions, I do not find that any ground is made out to interfere in the present petition. There is no error in the impugned orders. The petition is accordingly dismissed.

8.1.2016
vs

(Rajesh Bindal)
Judge

(Refer to Reporter)