

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 594 of 2017

State of Chhattisgarh Through The District Magistrate, District
Rajnandgaon, Chhattisgarh.

---- **Petitioner**

Versus

1. Sanat Kumar Verma & Anr. S/o Rohit Verma Aged About 28 Years R/o Village Muteda, Police Station Khairagarh, District Rajnandgaon, Chhattisgarh.
2. Komal Verma S/o Raruha Verma Aged About 34 Years R/o Village Muteda Nawagaon, Police Station Khairagarh, District Rajnandgaon, Chhattisgarh.

---- **Respondents**

For respondent No.2 : Shri R. S. Marhas,
Advocate.

For the petitioner / State : Shri Anil S Pandey,
Advocate.

None for respondent No.1.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

06.10.2017

Heard.

1. This petition has been brought under Section 482 of the Code of Criminal Procedure with a prayer to quash the impugned order dated 24.01.2017 passed by the Additional Sessions Judge, Khairagarh Distt- Rajnandgaon in Special Case No.02/2015 for payment of compensation of Rs. 1 lakh to the father of the

victim/respondent No.2.

2. It is submitted that the State Government is yet to prepare the scheme for the purpose of providing compensation to the victim or his dependent and hence Court cannot pass any order for payment of a fixed compensation in such cases.
3. Learned counsel for the respondents opposes the petition and the submission made in this respect and it is submitted that in view of the judgment of Supreme Court in **Tekan Alias Tekram Versus State of M.P.** reported in **2016 4 SCC 461**, and the Judgment of this Court in **State of Chhattisgarh Versus Dilip Verma** reported in **2017 SCC On-line CHH 510 : (2017) 175 AIC 862, in CRMP No.528/2017**, there is a clear direction to the State to formulate the scheme and pay the compensation to the victim or the dependents of the victim. Hence, this petition has no substance, which may be dismissed.
4. Heard counsel for both the parties and perused all the documents on record.
5. It was held by the Hon'ble Supreme Court in case of **Tekan Alias Tekram Versus State of M.P (supra)** which are as under : -

“While going through different schemes for relief and rehabilitation of victims of rape, we have also come across one Scheme made by the National Commission for Women (NCW) on the direction of this Court in Delhi Domestic Working Women's V. Union of India, whereby this Court, inter alia, had directed the National Commission for Women to evolve a “scheme” so as to wipe out the tears of unfortunate victims of rape. This Scheme has

been revised by NCW on 15.04.2010. The application under this Scheme will be in addition to any application that may be made under Sections 357 and 357-A of the Code of Criminal Procedure as provided in Para 22 of the Scheme. Under this Scheme, maximum of Rs. 3,00,000(Rupees three lakhs) can be given to the victim of rape for relief and rehabilitation in special case like the present case where the offences is against a handicapped woman who requires specialized treatment and care”.

6. The Hon'ble Supreme Court has further held in para -19 which is as under :-

“All the States and Union Territories shall make all endeavor to formulate a uniform scheme for providing victim compensation in respect of rape/sexual exploitation with the physically handicapped women as required under the law taking into consideration the scheme framed by the State of Goa for rape victim compensation.”

7. It was held by Coordinate bench of this Court in case of **State of Chhattisgarh Versus Dilip Verma** reported in **2017 SCC On-line CHH 510 : (2017) 175 AIC 862, in CRMP No.528/2017**, in para 9 to 12, which are as under :-

'Thus, learned Additional Sessions Judge trying offences under the provisions of the POSCO Act and the Rules 2012 was fully empowered to award compensation to the victim and such power is an additional jurisdiction conferred to the Special Judge.

The Special Judge (POSCO) has tried the offence under the POSCO Act, therefore, submission of learned Deputy Government Advocate that the Additional Sessions Judge has no power and jurisdiction to award the compensation and can only make recommendation for payment of compensation is absolutely without merit and deserves to be rejected.

Accordingly, the petition is dismissed in *limine* at admission stage without notice to other side.

At this stage, it is brought to my notice that direction to frame victim compensation scheme has been given by the Supreme Court, which has not been framed yet by the State Government. The Supreme Court in the matter of Tekan alias Tekram Vs. State of Madhya Pradesh (Now Chhattisgarh)¹ has directed as under:-

“13. On Perusal of the aforesaid victim compensation schemes of different States and the Union Territories, it is clear that no uniform practice is being followed in providing compensation to the rape victim for the offence and for her rehabilitation. This practice of giving different amount ranging from Rs.20,000/- to Rs.10,00,000/- as compensation for the offence of rape under section 357A needs to be introspected by all the States and the Union Territories. They should consider and formulate a uniform scheme specially for the rape victims in the light of the scheme framed in the State of Goa which has decided to give compensation

up to Rs.10,00,000/-.

14. While going through different schemes for relief and rehabilitation of victims of rape, we have also come across one Scheme made by the National Commission of Women (NCW) on the direction of this court in Delhi Domestic Working Women's Forum vs. Union of India and Ors. [Writ Petition (Crl) No. 362/93], whereby this Court inter alia had directed the National Commission for Women to evolve a "scheme" so as to wipe out the tears of unfortunate victims of rape. This scheme has been revised by the NCW on 15th April 2010. The application under this scheme will be in addition to any application that may be made under Section 357, 357A of the Code of Criminal Procedure as provided in paragraph 22 of the Scheme. Under this scheme maximum of Rs.3,00,000/- (Three lakhs) can be given to the victim of the rape for relief and rehabilitation in special cases like the present case where the offence is against an handicapped woman who required specialized treatment and care.

19.1 All the States and Union Territories shall make all endeavour to formulate a uniform scheme for providing victim compensation in respect of rape/sexual exploitation with the physically handicapped women as required under the law taking into consideration the scheme framed by the State of Goa for rape victim compensation."

I hope and trust that the State Government would frame the scheme as directed by the Supreme Court in the above-stated judgment (supra) expeditiously. A copy of this order be

sent to the Principal Secretary (Home), State of Chhattisgarh for compliance and needful action.'

8. As submitted by learned counsel for the State till date no rules have been formulated neither any scheme have been framed. Hence, keeping in view the judgment passed by the Hon'ble Supreme Court and by the Coordinate bench of this Court, State is directed to formulate the scheme for payment of compensation as ordered by the Court to respondent No.2 expeditiously as soon as possible.

9. Accordingly, this petition is dismissed.

Sd /-

(Rajendra Chandra Singh Samant)
Judge