

HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.16564 of 2005

ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleaders for the respondents.

The present writ petition is filed by the petitioners seeking a direction to the respondents to extend all the statutory reliefs and benefits payable to them being the dependants of the deceased D. Hema, who suffered atrocities under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the Act") and the Rules framed thereunder with damages of Rs.5 lakhs by declaring the action of the respondents in rejecting the monetary claim of the petitioners vide proceedings No.C1/1453/2005, dated 23.06.2005, as illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India.

The facts of the case are that all the petitioners belong to Scheduled Tribe community. Petitioner No.1 is an agricultural labour and petitioner Nos.2 to 4 are the minors and grand children of petitioner No.1. The 1st petitioner's son, Danavat Hema, was murdered on 26.06.2004 by one Puttapaka Venkateswarlu, s/o. Lingaiah and Crime No.97 of 2004 dated 28.06.2004 of Police Station, Miryalaguda was registered against the said Venkateswarlu and the wife of the deceased i.e. Danavat Kousalya. After completing the investigation, charge sheet was filed against accused Nos.1

and 2 for the offence under Section 302 IPC. The said criminal case is still pending. The petitioners also stated that they filed an application seeking exgratia under the provisions of the Act and the Rules made thereunder. However, the said request has been rejected by the 1st respondent by letter, dated 23.06.2005. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioners would submit that Section 3(1)(a) of the Act would contemplate that whoever, not being a member of a Scheduled Caste or a Scheduled Tribe puts any inedible or obnoxious substance into the mouth of a member of a Scheduled Caste or a Scheduled Tribe or forces such member to drink or eat such inedible or obnoxious substance shall be punishable with imprisonment with a term, which shall not be less than six months, but, which may extend to five years and with fine. Learned counsel would also brought to the notice of the Court Section 3(2)(v), which reads as under:

“commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine.”

Rule 12(4) of the Rules reads as under:

“The District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall make necessary administrative and other arrangements and provide relief in cash or in kind or both within seven days to the victims of atrocity, their family members and dependents according to the scale as provided in Annexure-I read with Annexure-II of the Schedule annexed to these

rules and such immediate relief shall also include food, water, clothing, shelter, medical aid, transport facilities and other essential items.”

Basing on the same, learned counsel would contend that it is a fit case where the children being the minors and dependents of the deceased are entitled for exgratia in compliance with the provisions of the Act and the Rules made thereunder.

Per contra, learned Government Pleaders appearing for respondent Nos.1 to 4 would submit that unless the intention on the part of the wrong doer is in tune with the intention of the Legislature for which the Act is enacted, the petitioners are not entitled for any exgratia. To support their contention, they relied on the judgment of this Court in **Iindla Krishnamma v. Government of A.P., Social Welfare (POA) Department and others**¹. The relevant portion of the said judgment is as under:

“A close reading of the aforesaid provision would make one thing clear that it is only when such an offence is said to be committed ‘on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe’. To put it in other words, if an offence is committed against a person belonging to the Scheduled Caste and Scheduled Tribe, not on the ground that he belongs to that community but on certain other grounds or for certain other reasons, Section 3(2)(v) does not get attracted.

A perusal of the final report filed in Crime No.275 of 2002 discloses that the prosecution did not allege that the husband of the petitioner was murdered only for the reason that he belongs to Scheduled Caste community. The allegation therein is that accused No.1 felt humiliated on account of extra marital relationship, which the husband of, the petitioner is alleged to have developed, with the wife of accused No.1. That, however, is a matter for the trial Court to decide.

¹ 2004 (7) ALT 932

The learned Government Pleader for Social Welfare submits that the charge sheet/final report was very much before the 3rd respondent when he passed the orders dated 11.02.2003 and though there was nothing to indicate that the husband of the petitioner was killed only on the ground that he belongs to Scheduled Caste community, still the benefit was extended. He sums up stating that when it is doubtful as to whether the petitioner was entitled for the benefit, which is already, extended to her, the question of extending any further benefit does not arise.”

A perusal of the affidavit in the case on hand discloses that the son of the 1st petitioner and the father of petitioner Nos.2 to 4 was killed by the wife of the deceased and one Puttapaka Venkateswarlu out of an enmity developed due to the illicit relationship between them. The said killing of the deceased does not relate to any atrocity on the Scheduled Caste or Scheduled Tribe. Therefore, it is not desirable to sanction exgratia relief under the provisions of the Act. Further, the facts of the case would also reveal that the deceased Danavat Hema was not killed merely because he is a Member of Scheduled Tribe, but due to the illicit intimacy between the wife of the deceased and the said Venkateswarlu. To eliminate the deceased, both of them hatched a plan and killed him by forcing him to consume pesticide. Therefore, unless it is established that an offence is committed against a person belonging to Scheduled Caste or Scheduled Tribe on the ground other than he belongs to that community and on some other reasons, Section 3(2)(v) does not get attracted. When Section 3(2)(v) is not attracted, the question of applying Rule 12(4) does not arise at all. In the backdrop of these events, there are no merits in the writ petition and the

petitioners are not entitled for any relief, much less, the relief as sought for in the writ petition.

The writ petition is accordingly dismissed. No costs.

Miscellaneous petitions, if any, shall also stand dismissed.

JUSTICE P. KESHAVA RAO

Date: 04.12.2017.
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