

Criminal Misc. M- No. 37498 of 2016 (O&M)

Date of decision : April 17, 2017

Rajbir

.....Petitioner

Versus

Keshav @ Joni and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Naveen Sharma, Advocate
for the petitioner.

Mr. Anshul Khurana, Advocate
for respondent No. 1.

Mr. Sanjay K. Saini, AAG, Haryana.

LISA GILL, J.

The petitioner prays for modification of order dated 02.09.2014 passed by the learned Additional Sessions Judge, Narnaul. The accused – respondent No. 1 was convicted by the learned Additional Sessions Judge, Narnaul for the offences punishable under Sections 452, 376, 506 IPC vide judgment dated 21.02.2009 and sentenced vide order dated 02.03.2009 as under:-

Section 452 IPC	RI for 05 years and fine of ₹25,000/- or in default of payment of fine, to further undergo SI for 01 year.
Section 376 IPC	RI for 10 years and fine of ₹1,00,000/- or in default of payment of fine, to further undergo SI for 02 year.
Section 506 IPC	RI for 05 years and fine of ₹25,000/- or in default of payment of fine, to further undergo SI for 01 year.

It was further directed by the learned trial Court that a sum of ₹1,00,000/- out of the total fine of ₹1,50,000/- to be realised from the

convict shall be released as compensation to the victim/prosecutrix under Section 357(1)(b) Cr.P.C. The relevant part of order dated 02.03.2009 reads as under:-

“ The injury caused to the prosecutrix cannot be compensated in terms of money, even then, I further order that Rs. 1,00,000/- out of the total fine, which will be realised from the convict be applied towards giving compensation to the victim/prosecutrix under Section 357 (1)(b) of Cr.P.C.”

In the appeal i.e. CRA-S-682-SB-2009 preferred by the accused – respondent No. 1, this Court on 03.10.2013 reduced the sentence of imprisonment of ten years imposed upon the accused under Section 376 IPC to seven years. The operative part of judgment dated 03.10.2013 reads as under:-

“ The sentence of imprisonment of 10 years, awarded to the appellant under Section 376 IPC, is reduced to 07 years. The fine shall remain intact. However, he shall have to pay a sum of ₹1,00,000/-, as compensation to the complainant, over and above the amount of fine already imposed by the learned trial Court, within three months from the date of receipt of certified copy of this judgment, failing which the appeal shall be deemed to have been dismissed. The sentences under Sections 452 and 506 IPC, alongwith fine and default clause shall remain intact.”

The petitioner, who is father of the prosecutrix/victim, moved an application for release of the amount awarded as compensation. The learned Additional Sessions Judge, Narnaul, however, observed that it is only a sum of ₹1,00,000/- which has been awarded as compensation to the victim and not ₹2,00,000/-. Therefore, a sum of ₹1,00,000/- be released

to the complainant against proper receipt and identification.

Learned counsel for respondent No. 1 fairly submits that the complainant/victim is/are entitled to compensation to the tune of ₹2,00,000/- in terms of order dated 03.10.2013 passed by this Court. It is further submitted that a sum of ₹2,50,000/- was deposited by respondent No. 1 on 19.12.2013. There is no objection, in case, further amount of ₹1,00,000/- is released to the complainant/victim in terms of the decision dated 03.10.2003 of this Court.

Learned counsel for the State does not raise any serious objection in view of the specific directions given by this Court on 03.10.2013 and order dated 02.03.2009 passed by the learned Additional Sessions Judge, Narnaul. The learned Additional Sessions Judge, Narnaul has clearly erred in ordering that only a sum of ₹1,00,000/- be released as compensation. A total compensation of ₹2,00,000/- (two lakhs) is to be released in view of the specific direction of this Court in CRA-S-682-SB-2009.

This petition is, thus, disposed of with a direction that another sum of ₹1,00,000/- out of the total sum of ₹2,50,000/- deposited by respondent No. 1 be released to the victim after proper identification, verification of the victim.

April 17, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes/No