

282

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

CRM-M-41299 of 2016 (O&M)

Date of decision: April 20, 2017

Sushila

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Jai Singh Yadav, Advocate for the petitioner.

Mr. G.S. Salwara, DAG Haryana.

Mr. S.K. Tripathi, Advocate for respondents No.5 to 9.

A.B. CHAUDHARI, J (Oral)

Rule. Heard forthwith with the consent of learned counsel
for the rival parties.

This Court had having taken cognizance of the petition
filed by the present petition, made following order on 17.01.2017:-

*“Heard learned counsel for the petitioner. Perused
the evidence of Savinder (PW-2) (now the deceased).*

*The prosecution case is that the owner of the School
and staff members charged the deceased who was working
as a Peon, for stealing ₹3,000/-, assaulted him and
thereafter, threw him from the roof of the School building,
as the result of which, he suffered grievous injuries. The
trial Court convicted the accused persons for offence
under Section 323 of the Indian Penal Code, 1860 ('IPC'
for short) and sentenced to undergo till rising of the Court.
PW-2 Savinder (deceased) died during trial, but it*

appears, as contended by the learned counsel for the petitioner that no petition was moved before the trial Court for taking note of the subsequent event, namely the death of Savinder during trial and obviously before the delivery of judgment of conviction. The judgment was delivered on 19.11.2011. No appeal was preferred by the State. Learned counsel for the petitioner submitted that the petitioner has filed a representation (Annexure P-2) addressed to the Superintendent of Police, Rewari, Haryana. Section 300(2) of the Code of Criminal Procedure, 1973 ('Cr. P.C.' for short) contemplates that the representation is to be made to the State Government. Learned counsel for the petitioner submits that it is because of the illiteracy of the petitioner who is a poor woman that compliance was not properly made.

In my opinion, it would be improper at such a late stage to decline to entertain the petition on the said ground, namely, non-compliance of Section 300(2) Cr. P.C. and instead ask the State Government represented by Ms. Tanushree Gupta, DAG Haryana, to consider the representation (Annexure P-2) within a period of 4 weeks from today, on urgent basis by requisitioning all the recordings including medical records from the petitioner also and take a decision and place the same before this Court, on the next date of hearing.

Prima-facie, I have seen the evidence of PW-2 Savinder (deceased) and I find that the petitioner, who is a mother of the deceased, ought to be compensated, subject to hearing the respondents.

In that view of the matter, issue notice of motion returnable on 22.02.2017. Dasti service. Respondents shall file their response on the returnable date.

At the asking of the Court, Ms. Tanushree Gupta,

DAG Haryana accepts notice on behalf of the State.”

Pursuant to the said order, State of Haryana has taken a decision vide order dated 28.03.2017. In view of the said decision, first part of the relief sought stands redressed.

This Court had made observations about compensation also in the above said order. But then since the same would be the matter of trial and evidence as well so also the compensation and assessment of compensation, I think the issue about compensation will have to be left to the trial Court who shall take a decision at the culmination of the trial in accordance with law. In that view of the matter, following order is passed:-

ORDER

- (i) CRM-M-41299 of 2016 is disposed of in the light of the observations made above;
- (ii) Trial Court shall take a decision regarding compensation etc. in accordance with law.

(A.B. CHAUDHARI)
JUDGE

April 20, 2017

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No