

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

CRM-M No. 9585 of 2017(O&M)

Date of decision: 22.3.2017

Ananya Thakur

....Petitioner

VERSUS

Union Territory of Chandigarh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Ekta Thakur, Advocate for the petitioner.

REKHA MITTAL, J.

The present petition directs challenge against order dated 25.10.2016 passed by the Additional Sessions Judge, Chandigarh whereby the criminal trial pending against Arvind Thakur, accused for committing offence punishable under Sections 376, 417, 493 and 506 of the Indian Penal Code, 1860 (in short 'IPC') has been ordered to stand abated as Arvind Thakur passed away on 10.10.2016 and an application filed by the petitioner for grant of compensation by issuance of notice to Ms. Aparna Thakur wife of late Sh. Arvind Thakur has been dismissed being infructuous.

Counsel for the petitioner has submitted that as Arvind Thakur committed a serious offence of rape resulting in loss and injury to the petitioner, death of Arvind Thakur should not be allowed to stand in her way for asserting a right to claim compensation to be recovered from the estate left behind by deceased Arvind Thakur. It is prayed that the impugned order may be set aside and the trial Court may be directed to decide the application on merits, in accordance with law.

I have heard counsel for the petitioner and perused the paper-book.

Perusal of the record would evident that earlier the petitioner filed a petition to challenge order dated 18.02.2015 passed by the Additional Sessions Judge -cum- Special Judge, Chandigarh and for issuance of directions to the Court to decide her application under Section 357-A Cr.P.C. vide Criminal Miscellaneous - M No.6935 of 2015. In the said petition, Arvind Thakur and Union Territory Chandigarh were arrayed as respondents.

On consideration of the matter in the light of rival submissions made by counsel for the parties, this Court held, reads as under:-

“In the present case police did not register the FIR and the merits of the complaint are yet to be adjudicated. The trial Court has only postponed the issue as it feels that considering the circumstances of the case it would be appropriate to take up the issue at the end of the trial. The trial Court has to take a decision at the conclusion of the trial in view of the facts.

It is yet to be adjudicated as to whether the petitioner is a legally wedded wife or it was a live-in relationship and whether she is a victim and whether the case would fall under Section 376 Cr.P.C. (sic).”

As this Court affirmed the order dated 18.02.2015 passed by the trial Court that liability of Arvind Thakur to pay compensation to the petitioner under Section 357-A Cr.P.C. would be decided at the conclusion of trial, it is difficult to accept contention of the petitioner that even though the criminal proceedings stand abated due to death of the accused and the Court has become functus officio, she is entitled to press her claim for grant of compensation. However, the petitioner may take recourse to

appropriate remedy under law to claim compensation due to alleged damage because of alleged misconduct of Arvind Thakur.

Disposed of accordingly.

MARCH 22, 2017
'D. Gulati'

Whether speaking/reasoned : yes/no
Whether reportable : yes/no

(REKHA MITTAL)
JUDGE