

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

(114)

CWP-4336-2017

Decided on: April 19, 2017.

Sapna and others

... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Narender Pal Bhardwaj, Advocate, for the petitioners.

M.M.S. BEDI, J (ORAL)

The petitioners, after having been acquitted in a case of rape registered at the instance of respondent No.3, vide judgment dated 03.09.2015, have filed the present writ petition for issuance of a writ in the nature of mandamus seeking compensation of Rs.5,00,000/- each for malicious prosecution.

I have heard learned counsel for the petitioners at length and I am of the opinion that compensation is payable to a victim under Section 357 Cr.P.C and to a person who has been acquitted under Section 250 Cr.P.C. Besides this, the specific provisions has been made for grant of compensation for malicious prosecution under ordinary civil law for which limitation of one year is prescribed. The following questions arise for adjudication:

- I. Whether the High Court in exercise of powers of writ jurisdiction can entertain a writ petition for compensation beyond the period of limitation of one year prescribed under the Limitation Act?
- II. Whether in the absence of any order for compensation having been passed under Section 250 Cr.P.C., the petitioners can be granted compensation whereas the said jurisdiction vests in the trial Court in any summons or warrant case?

III. Whether the ratio of judgments cited by counsel for the petitioners

i.e. Dr. Rini Johar and another Vs. State of M.P. and others, 2016

(3) R.C.R. (Criminal) 300, State of Rajasthan Vs. Jainudeen Shekh

and another, 2015 (4) R.C.R. (Criminal) 119, Dr. Ram Lakhan

Singh Vs. State Government of Uttar Pradesh through Chief

Secretary, 2016 (1) R.C.R. (Criminal) 343, Jagir Singh and others

Vs. State of Haryana and others, 2016 (5) R.C.R. (Civil) 920, Gian

Kuar Vs. State of Punjab CWP-1059 of 2016 decided on 24.01.2017

and Usha Adlakha Vs. State of Haryana and others, 1996 (2) R.R.R.

506, is applicable to the facts of the present case.

The above said judgments cited by counsel for the petitioners, have been found to be not applicable to the facts of the present case and the petitioners having not claimed the right of compensation for malicious prosecution within limitation, the present writ petition is held to be not maintainable.

On account of petitioners having not claimed any compensation under Section 250 Cr.P.C by filing application before the trial Court or praying for the relief at the time of conclusion of the trial, the writ petition is not maintainable.

The writ petition is dismissed on the grounds of delay, laches and non-maintainability without prejudice to the other legal rights of the petitioners.

April 19, 2017
harsha

(M.M.S. BEDI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No