



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P. (MD) No.667 of 2018

S.Veeralakshmi

: Petitioner

Vs.

1. The District Collector cum District Magistrate
Madurai District,
Madurai-625 020.

2. The Deputy Superintendent of Police,
D.S.P. Office,
Samayanallur Sub Division,
Madurai District.

3. The Inspector of Police,
All Women Police Station (AWPS)
Samayanallur,
Madurai District.
(Crime No.47 of 2013)

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C to direct the respondents to grant relief amount of Rs.3,75,000/- (75% of the total relief Rs.5,00,000/-) meant for the victim of Caste atrocities as per the Rule 12 (4), Annexure-1, Serial Number:44 of the Scheduled Caste and Scheduled Tribes Prevention of Atrocities Amendment Rules, 2016 to the petitioner within a stipulated time that may be fixed by this Court.

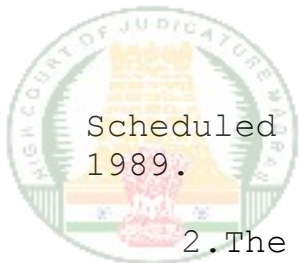
For Petitioner

: Mr.A.Sahaya Philomin Raj

For Respondents

: Mr.K.Suyambulinga Bharathi
Government Advocate (CrI.side)

ORDER



Scheduled Caste / Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2.The learned counsel appearing for the petitioner would submit that the petitioner belongs to Scheduled Caste community and the accused in this case belongs to Backward Community and he was a Government servant, working as Constable in the Armed Reserve Police Force. He further submit that the accused subjected the petitioner to repeated sexual intercourse on the promise of marrying her and as a result of the same, the petitioner became pregnant and after knowing about the pregnancy and the caste of the petitioner, the accused abandoned the petitioner.

3.On the basis of complaint preferred by the petitioner, First Information Report came to be registered in Crime No.47 of 2013 by the third respondent for the offence under Sections 376, 417 IPC and Section 3(1) (xi) of SC/ST Prevention of Atrocities Act, 1989. The said complaint has been investigated and a final report has also been filed and the same was taken on file in Spl.S.C.No.120 of 2016 which is pending before the learned V Additional District and Sessions Court and Special Court (PCR Court), Madurai District.

4.The learned counsel appearing for the petitioner brought to the notice of this Court Rule 12(4) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules, 1995, which reads as follows:

"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."

5.The learned counsel for the petitioner also brought to the notice of this Court Clause 44 under Annexure I, of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules, 1995 which reads as follows:



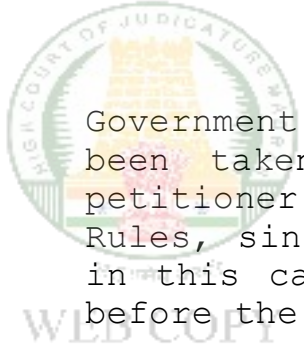
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44. Rape or Gang rape.	Five lakh rupees to the victim. Payment to be made
(i) Rape	the as follows:
[Section 375 of Indian Penal Code (45 of 1860)]	(i) 50 per cent. after medical examination and confirmatory medical report;
	(ii) 25 per cent. when the charge sheet is sent to the Court;
(ii) Gang rape [Section 376-D of the Indian Penal Code (45 of 1860)]	(iii) 25 per cent. on conclusion of trial by the lower Court.
	Eight lakh and twenty-five thousand rupees to the victim. Payment to be made as follows:
	(i) 50 per cent. after medical examination and confirmatory medical report;
	(ii) 25 per cent. when the charge sheet is sent to the Court;
	(iii) 25 per cent. on conclusion of trial by the lower Court.

6. The learned counsel appearing for the petitioner by citing the above said provisions would submit that the final report has been filed by the second respondent for the offence under Sections 376, 417 IPC and Section 3(1) (xi) of SC/ST Prevention of Atrocities Act, 1989. Since the offence of rape has been included in the final report, the petitioner is entitled to claim relief under the above said provisions.

7. Per contra, the learned Government Advocate (Crl. side) would submit that in view of the medical report, the petitioner was not subjected to rape and a child, which was born to the alleged victim, was subjected to D.N.A and the report revealed that the accused is not the biological father to the said child. He further submitted that the petitioner filed a petition in Crl.O.P.No.19734 of 2014 challenging the said report and the same was dismissed and the case is now pending before the Hon'ble Supreme Court in S.L.P.(Crl)No.372 of 2015. Therefore, till the final verdict emerges from the Hon'ble Supreme Court, the dispute with regard to the alleged rape and the child born out of the rape will be in-conclusive.

8. The second respondent has also filed counter affidavit in this case, in which, the submissions made by the learned



Government Advocate (Crl.side) has been reiterated and a stand has been taken by the second respondent to the effect that the petitioner is not entitled to get any relief as provided under the Rules, since the medical report reveals the fact that the accused in this case is not a biological father and the case is pending before the Hon'ble Supreme Court.

9.This Court has carefully considered the submissions made on either side.

10.Admittedly, the final report has been filed by the second respondent for the offence under Sections 376, 417 IPC and Section 3(1) (xi) of SC/ST Prevention of Atrocities Act, 1989 and the same has been taken on file in Spl.S.C.No.120 of 2016 by the Special Court. The issue with regard to the offence of rape is still at large and final conclusion has not been arrived at, in view of the medical report and also in view of the allegations made in the final report.

10.Prima facie reading of the final report and also 161 statements, do not establish the offence of rape at this stage. Therefore, this Court cannot grant the relief as sought for by the petitioner at this stage.

11.The learned Government Advocate (Crl.side) brought to the notice of the Court Clause 42 of the Annexure I of of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules, 1995, which is extracted hereunder:

Victimisation at the hands of a public servant [Section 3(2)(vii) of the Act]	Two lakh rupees to the victim and or his dependents. Payment to be made as follows: (i) per cent. at First Information Report (FIR) stage; (ii) per cent. when the charge sheet is sent to the Court; (iii) 25 per cent. when the accused are convicted by the lower Court.
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12.Section 3 (2) (vii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 reads as follows:

"3.Punishment for offences of atrocities, (2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, (vii)being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one



year but which may extend to the punishment provided for that offence."

13.It can be seen from the above said provision that a public servant, by virtue of his position, is given a larger punishment for committing the offence under Section 3.

14.It is interesting to note that this provision does not contemplate a situation where the public servant should have committed the offence while acting or purporting to act in the discharge of his official duty. Consciously, these words have been omitted and any offence committed under this Act by a person, who is the public servant, attracts larger punishment. Section 2 (bg) defines the public servant. Admittedly, in this case the accused is the public servant who comes within the definition.

15.The petitioner will be entitled to the relief as provided under Clause 42 of the Annexure I of of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules, 1995. The petitioner is entitled for the compensation of a sum of Rs.2,00,000/-, out of which 25% will have to be paid at the FIR stage and 50% has to be paid at the time the charge sheet is sent to the Court and the 25% of the balance amount must be paid at the time of conviction by the lower Court. Admittedly, in this case first two stages have been reached and accordingly, the petitioner is entitled to 75% out of the total compensation money as relief in accordance with Clause 42 of the Annexure I of of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules, 1995.

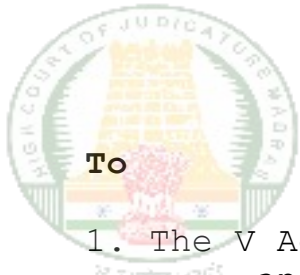
16.In view of the conclusion arrived at by this Court that the petitioner is entitled for compensation in this case, the first respondent is directed to pay 75% out of sum of Rs.2,00,000/- to the petitioner in accordance with Clause 42 of the Annexure I of of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules, 1995. The first respondent shall pay a sum of Rs.1,50,000/- to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

17.This Criminal Original Petition is allowed to the extent indicated above.

Sd/-
Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar (CS-iii)



To

1. The V Additional District and Sessions Judge,
and Special Court (PCR Court),
Madurai District.
2. The District Collector cum District Magistrate
Madurai District, Madurai-625 020.
3. The Deputy Superintendent of Police,
D.S.P. Office, Samayanallur Sub Division,
Madurai District.
4. The Inspector of Police,
All Women Police Station (AWPS)
Samayanallur, Madurai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

GNS

TE/PM/SAR-3 : 05/10/2018 : 6P/6C

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