

HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.421 OF 2016

ORDER :

This is a writ petition filed in the nature of writ of mandamus to declare the action of the respondents 1 to 3 in not paying the compensation to the petitioner to an amount of Rs.3,00,000/- [Rs. Three lakhs only] in spite of G.O.Ms.No.9, Law [LA. LA & J – Home Courts-B] Department, dated 07/03/2015 and judgment of Supreme Court in **SURESH AND ANR. V/s. STATE OF HARYANA**, reported in 2015 [1] ALT [Crl.] 263 [SC], as illegal, in violation of Article-21 of the Constitution of India and consequently to direct the respondents 6 and 7 to return the dowry amount of Rs.6,00,000/- and household articles and to pass such other suitable orders.

2. The petitioner stated in his affidavit that he performed the marriage of his daughter by name, Vani with the respondent No.6 in the month of May, 2010. At the time of marriage, an amount of Rs.5,00,000/- and household articles were given to respondents 6 and 7. Respondents 6 and 7 used to harass her daughter for an additional amount of dowry of Rs.10,00,000/- and he had paid Rs.1,00,000/- to them. In spite of conducting several panchayats before the elders, the respondents 6 and 7 did not change their attitude and used to torture his daughter. On 15/02/2015 his daughter committed suicide by hanging in the bed room. He gave a complaint on 16/02/2015 to the Chandanagar Police Station alleging that respondents 6 and 7 are responsible for her death. The Police issued FIR in Crime No.53 of 2015, dated 16/2/2015 for the offence punishable under section 304-B of I.P.C.

against the respondents 6 and 7, who are A-1 and A-2 in the above crime. The Chandanagar Police conducted inquest panchanama and sent the body for post-mortem examination. It is further stated in the affidavit that as per the directions of the Hon'ble Supreme Court, the State of Telangana passed G.O.Ms.No.9 Law [LA. LA & J – Home Courts-B] Department, dated 07/03/2015 to grant compensation to the victims for loss of life or injury. As per the said G.O., the petitioner is entitled for a compensation of Rs.3,00,000/- in view of the death of his daughter, Vani in the said incident. Therefore, the petitioner has filed the present writ petition seeking a direction to the respondents 1 to 3; Principal Secretary for Home, State of Telangana; State Legal Services Authority, State of Telangana, represented by its Secretary; The District Legal Services Authority, Ranga Reddy district to pay the compensation amount of Rs.3,00,000/-.

3. The learned counsel for the petitioner placed reliance on a order passed by this Court in WPMP.No. 18448 of 2015 in WP.No.14087 of 2015, dated 24/11/2015, wherein it was held as under :

“ In the light of the law laid down by the Supreme Court in Laxmi V/s. Union of India [2014] 4 S.C.C. 427, which was reiterated in Laxmi V/s. Union of India [2015] (9) S.C.J. 126, the State is bound to provide a minimum compensation of Rs.3,00,000/- to the victim of an acid attack,

There shall accordingly be a direction to the first respondent to forthwith disburse a sum of Rs.3,00,000/- [Rupees Three Lakhs only] to the petitioner, who is admittedly a victim of an acid attack. This disbursement shall be effected within two weeks from the date of receipt of a copy of this order.”

4. Placing reliance on the orders in an interlocutory application sought for, a direction to the Government to pay minimum compensation of

Rs.3,00,000/- to the victim of the offence punishable under section 304-B of I.P.C.

5. Heard the learned counsel for the petitioner and learned Assistant Government Pleader for Home [TS] for respondents 1, 4 and 5. None appeared on behalf of respondents 2 and 3; the State Legal Services Authority for Telangana and District Legal Services Authority, Ranga Reddy district, though a notice has been served to them. None appeared on behalf of the respondents 6 and 7, though notices have been served to them.

6. Learned counsel for the petitioner submits that the petitioner is the father of the deceased, who committed suicide on 15/02/2015 by hanging in the bed room. On a complaint of the petitioner, the Chandanagar Police registered a case against respondents 6 and 7, who are A-1 and A-2, for the offence punishable under section 304-B of I.P.C. The allegations against A-1 and A-2 are that on 15/02/2015 at 21:00 hours, A-1 Kandukuri Prashanth called the defacto complainant and informed him that his daughter Vani committed suicide in the bed room. Immediately he went and found his daughter's dead body and further stated that his daughter died due to unbearable harassment of her husband and mother-in-law. The Police registered a crime against A-1 and A-2 and after completion of investigation filed charge sheet and the case is pending before 19th Metropolitan Magistrate, Miyapur. As per the procedure, the learned Magistrate has to receive the charge sheet and take cognizance of the offence and register the case as P.R.C. The learned District and Sessions Judge has to refer the matter for trial before the competent Sessions Court. At this juncture, it is appropriate to refer to the provisions under "TELANGANA VICTIM COMPENSATION SCHEME" under section 357-A of the Code of Criminal Procedure, 1973. The learned counsel placing

reliance on the notification issued by the Telangana State Government in G.O.Ms.No. 9, referred to the scheme in clause-7, which reads as under:

7. Procedure for grant of compensation :

(1) Whenever a recommendation is made by the court under sub-section (3); or an application is made by any victim or his dependent under sub-section (4), of Section 357-A of the Act to the District Legal Services Authority, the District Legal Services Authority shall examine the case and verify the contents of the claim with regard to the loss or injury caused to victim and arising out of the reported criminal activity and may call for any other relevant information necessary in order to determine genuineness of the claim. After verifying the claim and by conducting due enquiry, the District Legal Services Authority shall award compensation within two months, in accordance with provisions of this Scheme.

(2) The District Legal Services Authority shall decide the quantum of compensation to be awarded to the victim or his dependents on the basis of loss caused to the victim, medical expenses to be incurred on treatment minimum sustenance amount required for rehabilitation including such incidental charges as funeral expenses etc. The compensation may vary from case to case depending on facts of each cases.

(3) While granting compensation under this Scheme an undertaking from the victim or the claimants shall be obtained to the effect that in case of granting subsequent compensation by the Court under sub-section (3) of Section 357 of the Act or under any other law, he shall remit the excess amount received as compensation under section 357 [A] of the Act.

(4) Compensation received by the victim from the State in relation to the crime in question, namely; insurance, ex-gratia and/or payment received under this Scheme or G.Os. passed to this effect shall be considered as part of the compensation amount under this Scheme. The victim/claimant, who has received compensation amount from collateral sources mentioned above shall be deemed to be compensated under this scheme and shall not be entitled to separate compensation under this Scheme. If the eligible compensation amount exceeds the payments received by the victim from collateral sources mentioned above, the balance amount only shall be paid out of the Fund.

(5) The State/District Legal Services Authority shall take into consideration the trauma undergone by a Victim of Commercial Sexual Exploitation and Trafficking [VOCSET] and the aspects of rehabilitation, reintegration and restoration of the VOCSET.

(6) The cases covered under Motor Vehicles Act, 1988 [59 of 1988] wherein compensation is to be awarded by the Motor Accident Claims Tribunal, and cases covered under existing GOs and G.O.s issued by the Government from time to time shall not be covered under this Scheme.

(7) The District Legal Services Authority, to alleviate the suffering of the victim, may order for immediate first aid facility or medical benefits to be made available free of cost on the certificate of the Police Officer now below the rank of the Officer-in-charge of the Police

Station or Magistrate of the area concerned, or any other interim relief, as it may deem fit.

(8) The amount of compensation decided and awarded/granted under this Scheme shall be as per the Schedule and shall be disbursed to the victim or his dependants from the Fund.

(9) The District Legal Services Authority shall, while making payment of amount towards compensation, ensure that all the provisions of this Scheme are strictly complied with.

7. The learned counsel for the petitioner placed reliance on the judgment of the Hon'ble Supreme Court in ***SURESH AND ANR. V/s. STATE OF HARYANA***¹, wherein it was held in para No.46 as under :

46. The amendments to the Code of Criminal Procedure brought about in 2008 focussed heavily on the rights of victims in a criminal trial, particularly in trials relating to sexual offences. Though the 2008 amendments left Section 357 unchanged, they introduced Section 357-A under which the Courts is empowered to direct the State to pay compensation to the victim in such cases where :

“the compensation awarded under section 357 is not adequate for such rehabilitation, or where the case ends in acquittal or discharge and the victim has to be rehabilitated.”

Under this provision, even if the accused is not tried but the victim needs to be rehabilitated, the victim may request the State or District Legal Services Authority to award him/her compensation. This provision was introduced due to the recommendations made by the Law Commission of India in its 152nd Reports in 1994 and 1996 respectively.

8. Placing reliance on the above judgment, it is submitted that even if the accused is not tried but the victim needs to be rehabilitated; and therefore, the victim may request the District Legal Services Authority to award him/her compensation.

9. In fact, the petitioner has not moved any application either before the Court where the case is pending or the concerned District Legal Services Authority or State Legal Services Authority for compensation. In fact, this is a case where the petitioner's daughter (deceased) committed suicide and died.

¹) 2015 [1] ALT – [CrI.] 263 {SC}

The case is pending before the competent Sessions Court for trial. The victim may move application before the State Legal Services Authority or District Legal Services Authority for awarding compensation as per Victim Compensation Scheme made by the Government. The petitioner without resorting to this move has straightaway filed this writ petition; and therefore, the petitioner is directed to follow the Victim Compensation Scheme and the procedure laid down t herein.

10. With the above observation, the writ petition is disposed of, granting liberty to the petitioner to approach the concerned State Legal Services Authority or the District Legal Services Authority as per the Victim Compensation Scheme by following the judgment of the Hon'ble Supreme Court in *SURESH AND ANR. V/s. STATE OF HARYANA*, referred supra and the same shall be considered as per Victim Compensation Scheme by following the directions of the Hon'ble Supreme Court in *Laxmi v/s. Union of India*, in W.P. [Crl.] 129 of 2006, as expeditiously as possible, within four weeks from the date of receipt of a copy of this order. No costs.

11. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

JUSTICE GUDISEVA SHYAM PRASAD.

20/04/2018

HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD



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