

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.16579 of 2015
Date of Decision:17.04.2018

Pooja Devi (minor)

. Petitioner

Vs.

State of Punjab and another

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Manoj Kumar Sharma, Advocate,
for the petitioner.

Mr.H.S. Sitta, AAG, Punjab.

RAKESH KUMAR JAIN, J.

The petitioner, allegedly a minor, resident of village Dagana Kalan, P.S. Bullowal, District Hoshiarpur, belonging to Scheduled Caste, is a rape victim. Her mother Laxmi Devi lodged a criminal case against Kulwinder Kumar, son of her sister-in-law (nanan), vide FIR No.82 dated 24.5.2012 under Sections 363/366-A/376 of the Indian Penal Code, 1860 [for short 'the IPC'] and Section 6 of the Protection of Children from Sexual Offences Act, 2012 [for short 'the POSCO Act'] at Police Station Bullowal, Hoshiarpur for the commission of alleged crime in which a session trial was held vide Session Case No.18 of 2013. The Additional Sessions Judge, Hoshiarpur convicted Kulwinder Kumar for the offence committed under Section 363/366-A/376 of the IPC and under Section 6 of the POSCO Act vide her order dated 18.4.2014 and by the order of the even date, sentenced Kulwinder Kumar for maximum period of 10 years besides the imposition of

fine of ₹5,000/-. The appeal preferred by Kulwinder Kumar before this Court against the order of conviction and sentence dated 18.4.2014 has been admitted and the recovery of fine has been stayed vide order dated 26.2.2015.

The petitioner has made a prayer for grant of compensation in terms of Section 357-A of the Code of Criminal Procedure, 1973 [for short 'the Cr.P.C.'] being a rape victim in terms of the 'victim compensation scheme' notified by the Government of Punjab, Department of Home Affairs and Justice dated 15.10.2013 as per which ₹3,00,000/- is the maximum limit fixed for payment of compensation to the rape victim. Since, the application for grant of compensation was not decided one way or the other, therefore, the petitioner has filed this petition in which after notice, the respondents have filed their reply in which they have averred that until and unless a recommendation is made by the Court for grant of compensation, the amount of compensation cannot be awarded and has referred to an order passed by the District Legal Services Authority [for short 'the DLSA'], Hoshiarpur in which the DLSA has decided that for the grant of compensation to the rape victim, the recommendation by the Court is *sine qua non* and since there was no recommendation by the Court, the amount of compensation cannot be awarded.

Learned counsel for the petitioner has submitted that the petitioner is a minor, who has been kidnapped and raped by Kulwinder Kumar, who has been convicted and sentenced by the Additional Sessions Judge, Hoshiarpur, is entitled for compensation under the Scheme called the 'victim compensation scheme'.

On the other hand, learned counsel for the respondents has submitted that since there was no recommendation by the Court, therefore, the DLSA, Hoshiarpur had turned down the application of the petitioner for grant of compensation.

I have heard learned counsel for the parties and perused the available record with their able assistance.

It is a undeniable fact that the petitioner being a minor had been raped by a person, who has already been convicted and sentenced by the competent criminal Court and his appeal is also pending and that there is a 'victim compensation scheme' notified by the State of Punjab on 15.10.2013 as per which the maximum amount of compensation in a case of rape is ₹3,00,000/-. The DLSA, Hoshiarpur has rejected the application of the petitioner for grant of compensation only on the ground that the learned Court, who had passed the order of conviction and sentence, has not further passed the order of grant of compensation.

In my considered opinion, the petitioner cannot be deprived of the amount of compensation to which she is entitled to in terms of Section 357-A of the Cr.P.C. and the Scheme and as such the order passed by the DLSA, Hoshiarpur is hereby modified and a direction is issued to the DLSA, Hoshiarpur to reconsider the case of the petitioner for the grant of compensation under the 'victim compensation scheme'. It is further directed that the entire exercise shall be carried out by the respondents much less the DSLA, Hoshiarpur, for the payment of compensation to the petitioner, within a period of two months from the date of receipt of certified copy of this order.

The Registry is directed to send a copy of this order to both the respondents as well as the DLSA, Hoshiarpur for compliance.

17.04.2018
Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes/No
Whether Reportable : Yes/No