

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

CWP No.10762 of 2018
Date of Decision:14.09.2018

Raghubir

. Petitioner

Vs.

State of Haryana and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.V.K. Jindal, Advocate, for the petitioner.

Mr.Rahul Mohan, DAG, Haryana.

RAKESH KUMAR JAIN, J.

The petitioner has challenged the order dated 22.9.2016 by which his application for premature release has been dismissed by respondent No.1.

In brief, the petitioner was tried in a case registered vide FIR No.159 dated 29.5.1999 under Sections 323, 324 & 302 of the Indian Penal Code, 1860 [for short 'the IPC'] at Police Station City, Narnaul. He was held guilty for committing an offence punishable under Sections 302 & 323 of the IPC by the Sessions Judge, Narnaul on 6.8.2001 and was awarded life imprisonment on the same day. The petitioner filed CRA No.440-DB of 2001 which was dismissed on 30.7.2010 by this Court. The petitioner had poured/thrown sulphuric acid upon Ramesh (deceased) on 29.5.1999 and his death had occurred on 30.5.1999. It is recorded in the order dated 30.7.2010 that "*Dr. Suman Dutta (DW1, Who conducted autopsy on the dead body of Ramesh, had found the skin of Ramesh corroded with signs of inflammation on left side of the tempo parietal area, frontal and left eye, left side nose, left*

right arm antero-medially, left forearm and hands dorsally, left arm and forearm dorsally and anteriorly, left and palm dorsally, both lower 1/3rd thigh anteriorly and knee, left side back as a whole, left eye cornea and both shoulders. All the burns lesions were ante mortem in nature. The death, in the opinion of the doctor, was due to shock as a result of corrosive burns which were sufficient to cause death in the ordinary course of nature. The doctor also opined that the injuries on the dead body of Ramesh could be due to pouring of 'Sulphuric Acid' which can cause the death".

The petitioner had applied for his premature release in terms of the Policy dated 8.8.2000. His case was considered on 7.9.2016 by the State Level Committee. It was found that he had undergone sentence in jail upto 3.8.2016 to the extent of actual sentence of 11 years 3 months and 23 days and total sentence of 14 years and 25 days. Respondent No.1 declined the request of the petitioner on the ground that his case falls in Clause 2(a)(xii) 'Burning Body' of the said Policy.

Learned counsel for the petitioner has submitted that Clause 2(a)(xii) of the Policy would come into play only after the death and not as a cause of death. In support of his submission, he has referred to two decisions rendered by this Court in ***CRWP No.1419 of 2010*** titled as ***"Harpal Singh Vs. State of Haryana and another"*** decided on 06.01.2011 and ***CRWP No.1055 of 2016*** titled as ***"Surender Vs. State of Haryana and others"*** decided on 23.12.2016.

On the other hand, learned counsel for the respondents has submitted that the case of the petitioner would fall in Clause 2(a)(xii) of the Policy because the petitioner had shown brutality by causing death of Ramesh, using Sulphuric acid, which was poured/thrown over his body and caused extensive burns on account of which he could not survive even in the

hospital a day after the occurrence. It is also submitted that the petitioner has undergone 12 years 4 months and 20 days of actual sentence and 16 years 2 months and 15 days of total sentence with remission as on 28.8.2017 but he has to undergo 14 years actual sentence and 20 years of total sentence as his case falls within the definition of 'heinous crime'. It is also submitted that Clause 2(a)(xii) of the Policy does not anywhere says that it would apply after the death and would not apply at the time of causing death.

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

The issue for consideration for this Court is about the interpretation of Clause 2(a)(xii) of the Policy which provides as under:-

“Murder exhibiting brutality such as cutting the body into pieces or burning/dragging the body as evident from judgement of the Court.”

Before any opinion is expressed about the true import of Clause 2(a)(xii) of the Policy, it would be pertinent to mention that in the Policy dated 8.8.2000, applicable to this case, various categories of convicts and the sentence they have to suffer both actual and with remission for the purpose of seeking premature release have been laid down. Clause 2(a)(xii) of the Policy deals with the convicts whose death sentence is commuted to life and the convicts who have been imprisoned for life of having committed a heinous crime. The 'heinous crime' is defined in Clauses 2(a)(i) to (xvii) of the Policy. It is further provided therein that in such type of cases, the convict has to suffer 14 years actual sentence including under trial period and 20 years of total sentence including remissions for the purpose of seeking premature release.

Adverting back to Clause 2(a)(xii) of the Policy, learned counsel for the petitioner has submitted that it would apply after the commission of murder and has taken the support of two decisions rendered by this Court in the cases of *Harpal Singh (Supra)* and *Surender (Supra)*.

However, I am of the considered opinion that Clause 2(a)(xii) of the Policy would apply in both the circumstances i.e. at the time of causing death and after committing the murder. The word used in Clause 2(a)(xii) of the Policy is 'murder exhibiting brutality' which has three parts i.e. (i) cutting the body into pieces, (ii) burning the body and (iii) dragging the body. 'Murder exhibiting brutality' could be before the murder or after the murder as well e.g. cutting the body into pieces while committing murder or cutting the body into pieces after the murder for the purpose of disposing of the body, similarly a person is burnt alive for the purpose of his murder and the body of the deceased is burnt after the death causing disappearance of the evidence and in the same manner, dragging the body of a person alive and kill him in that process and dragging the body of the deceased after his death.

Thus in such circumstances, there is no error in the impugned order because it is a case of exhibiting brutality on the part of the petitioner who had killed Ramesh by pouring/throwing sulphuric acid all over his body causing serious burns which took his life on the next date of the occurrence in the hospital. Hence, I do not find any merit in the present writ petition and the same is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

14.09.2018

Vivek

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No