

C.W.P. No. 322 of 2018

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 322 of 2018

DATE OF DECISION:12.02.2018

Sharwan Kumar and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Satyajeet Malik, Advocate
for the petitioners.

DAYA CHAUDHARY, J.

The prayer in the present petition is for issuance of directions to the respondents to grant compensation and rehabilitation to the petitioners as per provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (hereinafter referred to as 'the Rules, 1995') on the basis of post-mortem report dated 13.6.2016 prepared in case FIR No. 0388 dated 5.6.2016 registered under Section 365 IPC at Police Station Rohtak City.

Briefly, the facts of the case, as made out in the present petition are that deceased-Neetu (wife of petitioner No.1 and mother of petitioners No.2 to 5) did not return home after she left to work at house of one Vidya Dhaka being domestic servant on 4.6.2016. All efforts were made to find her but no clue was found. Ultimately aforesaid FIR was registered on 5.6.2016. Dead body of deceased-Neetu was found near Puliya of Sector-3, Rohtak on 12.6.2016 and thereafter postmortem of dead body was conducted on 13.6.2016.

Neetu belongs to 'Dhanak' caste, which is recognized as Scheduled Caste/Tribe under the Constitution (Scheduled Castes) Order, 1950. Learned counsel further contends that as per provisions of Rule 12 (4) of the Rules, 1995, the petitioners being dependents upon the deceased are entitled to receive compensation and rehabilitation. The petitioners are very poor and fall in the category of people living below the poverty line. They have lost the sole bread earner of the family and it is very difficult for them to meet out their daily needs. Petitioner No.1 made a written representation for grant of compensation and rehabilitation under the Rules, 1995 and personally met the District Welfare Officer, Rohtak on 24.11.2017 but no action has been taken thereupon, which forced the petitioners to approach this Court by way of filing the present petition.

Heard the arguments advanced by learned counsel for the petitioners and have also gone through the documents available on the file.

It is not disputed that Sections 302, 201 IPC and Section 3 and 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act') were added subsequently. Postmortem of the dead body was conducted and the opinion given by the doctor is reproduced as under:-

“In our opinion, the cause of death in this case is strangulation by ligatures, which is antemortem in nature and sufficient to cause death immediately.”

Rule 12 (4) of the Rules, 1995 is reproduced as under:-

12. Measures to be taken by the District Administration.—

(1) XXXX

(2) XXXX

(3) XXXX

(4) The District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall make arrangements for providing immediate relief in cash or in kind or both to the victims of atrocity, their family members and dependents according to the scale as in the Schedule annexed to these rules (Annexure I read with Annexure II). Such immediate relief shall also include food, water, clothing, shelter, medical aid, transport facilities and other essential items.

Admittedly, investigation is in progress and same has not been concluded so far. It is to be seen as to whether the petitioners were dependent upon the income of the deceased or not and there is no other source of income. Although a representation has been made and the same is still pending. Source of income of petitioner No.1, who is husband of the deceased, has not been mentioned in the petition. Challan has also not been presented so far. Learned counsel for the petitioners has not been able to mention anything about the stage of the investigation. Simply it has been stated that investigation has not been completed and challan has not been presented. No direction can be issued and present petition is dismissed being premature.

However, the petitioners are at liberty to pursue the representation with the competent authority.

February 12, 2018
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No