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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 29th October 2018

Pronounced on: 17th December 2018

+ **CRL.A. 831/2013**

JAGDISH KAUR & ANR.

..... Appellant

Through: Mr. H. S. Phoolka, Sr. Advocate with
Ms. Kamna Vohra and Ms. Shilpa
Dewan, Advocates for Complainant
Jagdish Kaur.

versus

BALWAN KHOKHAR & ORS.

..... Respondents

Through: Mr. Sandeep Sethi, Senior Advocate
with Mr. Rakesh Vats and Mr. Jeetin
Jhala, Advocates for R-1.
Mr. R. N. Sharma, Advocate for R-2.
Mr. Aditya Vikram, Advocate
(DHCLSC) with Mr. Avinash,
Advocate for R-3.
Mr. R. S. Cheema, Sr. Advocate with
Mr. D. P. Singh, Ms. Tarannum
Cheema, Ms. Hiral Gupta, Mr. Manu
Mishra & Ms. Smrithi Suresh,
Advocates for R-4 (CBI).

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE VINOD GOEL**

JUDGMENT

Dr. S. Muralidhar, J.:

1. The present appeal has been preferred against the judgment of the trial Court in SC No.26/10 dated 30th April 2013 and the order on sentence dated 9th May 2013 whereby Respondent Nos. 1 to 3 herein were convicted and

sentenced in the following manner:

- (i) For the offence punishable under Section 302 read with Section 149 IPC, they were sentenced to imprisonment for life along with payment of a fine of Rs.1,000/- and, in default of payment of fine, to undergo rigorous imprisonment ('RI') for six months;
- (ii) For the offence punishable under Section 147 IPC, they were sentenced to two years of RI along with payment of a fine of Rs.1,000/- and, in default of payment of fine, to undergo RI for six months;
- (iii) For the offence punishable under Section 148 IPC, they were sentenced to three years of RI along with payment of a fine of Rs.1,000/- and, in default of payment of fine, to undergo RI for six months.

2. The prayer in the present appeal reads as under:

“It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to call for the Trial Court records in the case of CBI v. Sajjan Kumar & Ors. and after appreciation of the evidence, modify the order on sentence dated 09.05.2013 and award the maximum sentence on respondents 1, 2, 3 and also award compensation to the victims and appellants herein in the interest of justice.

Any other relief as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be granted.”

3. On 2nd December 2013, the following order was passed by this Court in this appeal:

“This is an appeal filed by the widow of the deceased seeking compensation as provided under Section 357 as well as

Section 357A of the Code of Criminal Procedure as also for enhancement of sentence of respondents. Mr. Phoolka, however, states that he is not pressing the prayer for enhancement of sentence.

As per Section 357A, the State Government is expected to prepare a scheme in coordination with the Central Government for providing funds for the purpose of compensation to the victim or his dependants who have suffered loss and injury as a result of the crime and who require rehabilitation.

Since neither the State Government nor the Central Government is before this Court we deem it appropriate to issue notice to them also so that they can come forward with their response in respect of the compliance of the mandate of Section 357A of Cr.P.C. Mr. Sanjay Lao accepts notice on behalf of the State Government and he wants some time to bring to the notice of this Court as to whether any steps have been taken in respect of the mandate of Section 357A Cr.P.C. Let that be done before the next date.

Central Government through standing counsel be now served for 12th December, 2013.”

4. Thereafter, the following order was passed on 12th December 2013:

“Learned standing counsel appearing on behalf of Union of India and NCT of Delhi have produced a notification dated 02nd February, 2012 issued by the Lt. Governor of Delhi in exercise of the powers conferred under Section 357A of the Code of Criminal Procedure, 1973. Its copy has been supplied to counsel for the appellants, who wants some time to go through the same and submits that if the appellants can approach Delhi Legal Services Authority for grant of compensation under Section 357A Cr.P.C., which according to the learned standing counsel for the Government of NCT of Delhi the appellants can definitely do even now, necessary steps shall be taken by the appellants and if any directions of this Court are required to be obtained they would move appropriate

application.

In view of the aforesaid, no further directions are required to be given at this stage in respect of the claim of compensation being made by the appellants under Section 357A Cr.P.C.

Admit.

Appeal to be listed in due course along with the connected appeals of convicted accused persons.”

5. The connected appeals of the convicted persons have been dismissed and the appeal of the CBI has been partly allowed today by a separate judgment. As far as the present appeal is concerned, neither of the two prayers survives. The prayer for enhancement of sentence was not pressed, as noted in the order dated 2nd December 2013, and the issue of compensation stood addressed by the order dated 12th December 2013. No further directions are, therefore, called for.

6. The appeal is disposed of accordingly.

S. MURALIDHAR, J.

VINOD GOEL, J.

DECEMBER 17, 2018