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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.397 of 2017

State of Chhattisgarh through the Station House Officer, Police Station
Chhuikhadan, District Rajnandgaon, Chhattisgarh

---- Applicant

versus

Chedanram Sahu, S/o Tulsiram Sahu, R/o Village Udaipur, Police Station
Chhuikhadan, District Rajnandgaon, Chhattisgarh

--- Respondent

For Applicant/State	:	Shri K.K. Dewangan, Dy. Govt. Advocate
For Respondent	:	Shri Vedant Bhelonde, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

7.2.2019

1. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
2. Facts of the case, in brief, are that Respondent Chedanram Sahu, who is father of the minor victim/prosecutrix, aged about 15 years, made a report in the police station on 23.7.2014 alleging that on 20.7.2014, accused Ashok Baghel abducted his minor daughter/the prosecutrix and committed sexual intercourse with her. On the basis of his report, an offence was registered against Ashok Baghel. On completion of the investigation, a charge-sheet was filed. Charges were framed against Ashok Baghel under Sections 363, 366, 376 of the Indian Penal Code and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 (henceforth 'the Pocso Act'). As many as 10 witnesses were examined by the prosecution in support of its case. After trial, vide impugned judgment dated 20.9.2016 passed in Special Case No.8

of 2014, the Additional Sessions Judge, Khairagarh, District Rajnandgaon convicted and sentenced accused Ashok Baghel for the offence under Sections 363, 366, 376 of the Indian Penal Code and Sections 3 and 4 of the Pocso Act and in paragraph 54 of her judgment, she issued a direction to the State Government to pay compensation to Chedanram Sahu, father of the minor prosecutrix to the tune of Rs.1,00,000/- towards physical and mental loss suffered by the prosecutrix. By the instant revision, the State/Applicant has challenged the compensation part only.

3. Learned Counsel appearing for the State/Applicant submits that the Trial Court has committed an illegality in issuing direction to pay compensation to the father of the prosecutrix/victim. The Trial Court could only have made a recommendation under Section 357-A(2) of the Code of Criminal Procedure for compensation and only upon acceptance of the recommendation the compensation could have been payable to the victim in accordance with law and as such the order of the Trial Court for payment of the compensation is without jurisdiction and authority of law. He further submits that from the schedule appended to the notification dated 3.8.2011 issued by the Government of Chhattisgarh, Department of Home (Police) notifying/prescribing the "Victim Compensation Scheme, 2011", it reveals that a compensation to the tune of Rs.1,00,000/- will be provided in a case of loss of life only and in a case relating to rape with a minor girl, compensation to the tune of Rs.50,000/- only can be provided. Therefore, the Trial Court, without considering the relevant provisions of law, has arbitrarily issued the above direction of payment of compensation, which deserves to be set aside.

4. Learned Counsel appearing for the Respondent submits that as per sub-section (8) of Section 33 of the Pocso Act, in appropriate cases, the Special Court under the Pocso Act, in addition to imposition of punishment, can also direct for payment of such compensation to a child for any physical or mental trauma caused to him/her for his/her immediate rehabilitation. Rule 4 of the Protection of Children from Sexual Offences Rules, 2012 (henceforth 'the Pocso Rules') also provides that the compensation awarded by the Special Court is to be paid by the State Government from the Victim Compensation Scheme or from other scheme or from the fund established by the Government for the purposes of compensating and rehabilitating the victims under Section 357-A of the Code of Criminal Procedure or under any other law in force. Therefore, the Special Judge trying the offences under the Pocso Act and the Pocso Rules is fully empowered to award compensation to the victim and such power is an additional jurisdiction conferred upon the Special Judge. Relying upon a judgment of this Court in **State of Chhattisgarh v. Dilip Verma, 2017 (3) CGLJ 235**, he further submits that the Special Court is empowered to direct for payment of compensation also, which is in addition to the power conferred under Section 357-A of the Code of Criminal Procedure. Thus, the Special Court has rightly granted the compensation.
5. I have heard Learned Counsel appearing for the parties and perused the material available with due care.
6. It is not in dispute that accused Ashok Baghel has been convicted for the offence punishable under Sections 363, 366, 376 of the Indian Penal Code and Sections 3 and 4 of the Pocso Act. Sub-

section (8) of Section 33 of the Pocso Act empowers a Special Judge under the Pocso Act that in appropriate cases the Special Judge, in addition to imposition of a punishment, can also direct for payment of a compensation to a child/victim for any physical or mental trauma caused to him/her for his/her rehabilitation.

7. In **(2016) 4 SCC 461 [Tekan alias Tekram v. State of Madhya Pradesh (Now Chhattisgarh)]**, it has been observed by the Supreme Court as follows:

“13. On perusal of the aforesaid Victim Compensation Schemes of different States and the Union Territories, it is clear that no uniform practice is being followed in providing compensation to the rape victim for the offence and for her rehabilitation. This practice of giving different amount ranging from Rs.20,000 to Rs.10,00,000 as compensation for the offence of rape under Section 357-A needs to be introspected by all the States and the Union Territories. They should consider and formulate a uniform scheme specially for the rape victims in the light of the scheme framed in the State of Goa which has decided to give compensation up to Rs.10,00,000.

14. While going through different schemes for relief and rehabilitation of victims of rape, we have also come across one Scheme made by the National Commission for Women (NCW) on the direction of this Court in *Delhi Domestic Working Women's Forum v. Union of India*, (1995) 1 SCC 14, whereby this Court, inter alia, had directed the National Commission for Women to evolve a “scheme” so as to wipe out the tears of unfortunate victims of rape. This Scheme has been revised by NCW on 15-4-2010. The application under this Scheme will be in addition to any application that may be made under Sections 357 and 357-A of the Code of Criminal Procedure as provided in Para 22 of the Scheme. Under this Scheme, maximum of Rs.3,00,000 (Rupees three lakhs) can be given to the victim of rape for relief and rehabilitation in special cases like the present case where the offence is against a handicapped woman who requires specialised treatment and care.

19. In the result, we dismiss the appeal having no merit and issued the following directions:

19.1. All the States and Union Territories shall make all endeavour to formulate a uniform scheme for providing victim compensation in respect of rape/sexual exploitation with the physically handicapped women as required under the law taking into consideration the scheme framed by the State of Goa for rape victim compensation;

19.2. So far as this case is concerned, the respondent State shall pay a sum of Rs.8000 per month as victim compensation to the victim who is physically handicapped i.e. blind, till her lifetime.”

- 8.** Therefore, on considering the present case in the light of above observation also, I find that the Special Court is fully empowered to grant compensation to the victim. Hence, the Special Court has rightly granted the compensation to the father of the minor prosecutrix/victim.
- 9.** Consequently, I do not find any merit in the instant revision. It is, therefore, dismissed.

Sd/-

(Arvind Singh Chandel)
Judge