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HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 413 of 2019**

*(Arising out of order dated 22.08.2019 passed by the learned Single Judge in Writ
Petition (C) No. 2324 of 2019)*

- Fuleshwari @ Anita Singh D/o - Smt. Laxmaniya Singh Aged About 16 Years Minor Through Her Natural Guardian Mother Smt. Laxminiya Singh W/o - Motu Singh Aged About 40 Years, R/o - Jarhi (Urja Nagar), Ward No. 15, Post Jarhi, Police Station Bhatgaon, District Surajpur Chhattisgarh

---- Appellant**Versus**

1. State of Chhattisgarh Through The Secretary, Department of Health And Family Welfare, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur District Raipur Chhattisgarh
2. Secretary, State of Chhattisgarh, Home Department, Mantralaya Mahanadi Bhawan, Atal Nagar, Raipur District Raipur Chhattisgarh
3. Superintendent Of Police, Surajpur, District Surajpur Chhattisgarh
4. Collector, Surajpur, District Surajpur Chhattisgarh
5. Superintendent Of Police, Balrampur District Balrampur Chhattisgarh
6. Child Welfare Committee Surguja, Through The President Office At Bal Nyayalay, Kanya Parisar Road, Ambikapur, District Surguja Chhattisgarh
7. Child Welfare Committee Surajpur, Through Its Presedent Officer At Ketka Road, Manpur, District Surajpur Chhattisgarh
8. Chief Medical And Health Officer, Surajpur, District Surajpur Chhattisgarh
9. Dean, District Medical College/hospital, Ambikapur, District Surguja Chhattisgarh
10. Station House Officer, Police Chowki Bario, District Balrampur Chhattisgarh

---- Respondents

For Appellant : Shri Keshav Prasad Gupta, Advocate
For Respondent/ State : Shri Gagan Tiwari, Deputy Advocate General

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per Parth Prateem Sahu, J.

05/11/2019

1. The Appellant who is minor approached this Court by filing writ petition seeking relief for termination of pregnancy under the provision of Medical Termination of Pregnancy Act, 1971 (hereinafter referred to as 'the Act, 1971') on the ground that she has been subjected to sexual harassment by the accused due to which she became pregnant. The learned Single Judge after hearing the writ petitioner, directed the Respondents/State to obtain the status period of the age of pregnancy carrying by the Petitioner, on which it was found that the pregnancy was of more than 20 weeks and the termination may cause threat to life of the Petitioner. On the basis of the said report submitted by the Respondents/State, the writ petition filed by the Petitioner was dismissed, stating that as per the provision of sub-Section 2 of Section 3 of the Medical Termination of Pregnancy Act, 1971 the termination of the pregnancy cannot be ordered.
2. Aggrieved by the order passed by the learned Single Judge, the Appellant approached this Court by way of filing the appeal. During the course of arguments, the learned counsel for the Appellant submits that looking to the age of pregnancy, now Appellant is not pressing for the first relief sought by her in the writ petition, but the learned Single Judge has not considered the second relief sought by her with respect to the grant of compensation to the victim.
3. The learned counsel for the State submits that the grant of compensation has been taken care of under the Protection of Children from Sexual Offences Act, 2012 (for short, 'the POCSO Act') and the relevant provision is provided

under Section 33(8) of the said Act. He further submits that Rule 7 of the Protection of Children from Sexual Offences Rules, 2012 (for short, 'the POCSO Rules') also provides the relief to the victim with respect to the grant of monetary compensation against the illegal sexual harassment committed by any person to her. Section 33(1) and Section 33(8) of the POCSO Act are reproduced herein below :

“Section 33 Procedure and powers of Special Court.-(1) A Special Court may take cognizance of any offence, without the accused being committed to it for trial, upon receiving a complaint of facts which constitute such offence, or upon a police report of such facts.

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xxx

xxx

(8) In appropriate cases, the Special Court may, in addition to the punishment, direct payment of such compensation as may be prescribed to the child for any physical or mental trauma caused to him or for immediate rehabilitation of such child.”

4. Rule 7(1) and 7(2) of POCSO Rules are reproduced herein below :

“7. Compensation.-(1) The Special Court may, in appropriate cases, on its own or on an application filed by or on behalf of the child, pass an order for interim compensation to meet the immediate needs of the child for relief or rehabilitation at any stage after registration of the First Information Report. Such interim compensation paid to the child shall be adjusted against the final compensation, if any.

(2) The Special Court may, on its own or on an application filed by or on behalf of the victim, recommend the award of compensation where the accused is convicted, or where the case ends in acquittal or discharge, or the accused is not traced or identified, and in the opinion of the Special Court the child has suffered loss or injury as a result of that offence.”

5. Looking to the relevant provision of law already available under the POCSO Act and Rules made there under as also the Crime No. 41/2019 registered against accused, we direct the Appellant to approach the Court where the criminal case is pending under POCSO Act and to file an appropriate

application seeking the monetary compensation provided under the POCSO Act. If the Petitioner files the application under the provision of Section 33(8) of the POCSO Act read with Rule 7 of the POCSO Rules, the concerned Court may decide the said application at the earliest.

6. With the aforementioned observation the writ petition is disposed off.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge