

IN THE HIGH COURT AT CALCUTTA
(CRIMINAL REVISIONAL JURISDICTION)

PRESENT:

THE HON'BLE JUSTICE SIDDHARTHA ROY CHOWDHURY

CRR 3605 of 2005

MANIK KUMAR KULIA

VS.

STATE OF WEST BENGAL & ANR.

For the Petitioner : Mr. Soubhik Mitter, Adv.

For the Opposite Parties : Mr. Arijit Ganguly, Adv.
Mr. Sandip Chakraborty, Adv.

Order dated : 21st November, 2022

Siddhartha Roy Chowdhury, J. (Oral):

1. Challenge in this criminal revision is to the judgement and order passed by the learned Additional Sessions Judge, 1st Court, Purulia on 06.09.2005 recording an order of acquittal against the persons who stood trial as accused before the learned Trial Court. While recording an order of acquittal the learned Trial Judge was pleased to hold that S.I. Manik Kumar Kulia was responsible for the death of Tikaram Majhi as he opened fire from service revolver and an order was passed granting compensation to be paid by State and recovered from Manik Kumar Kulia.
2. Mr. Soubhik Mitter, learned Counsel representing the petitioner submits that it is a classic case of violation of natural justice.

3. Mr. Chakraborty, learned Counsel representing the State submits a report pursuant to the direction given to the State and the report reveals that O.P. No. 2 died on 26.01.2015 and unfortunately S.I. Manik Kumar Kulia succumbed injuries, he sustained in a road accident sometime in the year 2012. The report is taken on record. Since the petitioner was directed to pay compensation, the possibility of it's realization from his legal heirs cannot be ruled out. Hence I am inclined to dispose of the petition on merit.
4. The fact of the case in short is that on 7/8.10.1997 at the witching hour at night police found some waylaid and in a bid to nab them police opened fire resulting into the death of Tikaram Majhi. However, the O/C Balarampur P.S. S.I. Manik Kumar Kulia as he then was neither arrayed as one of the accused persons in the proceeding before the learned Trial Court nor any case was registered separately against him for committing the death of Tikaram Majhi by using his service revolver. Without giving an opportunity of being heard learned Trial Court was pleased to direct the State of West Bengal to compensate the family members of the victim Tikaram Majhi that too without indicating amount towards compensation and liberty was given to the State of West Bengal to recover the said amount of compensation from the concerned police officer i.e. S.I. Manik Kumar Kulia.
5. Even God did not pass a sentence upon Adam, before he was called upon to make his defence. "Adam" says God, "Where art thou? Hast thou not eaten of the tree whereof I commended that thou shouldest not it." Here without giving an opportunity of being heard,

learned Trial Judge passed the direction upon a man, not party to the proceeding to pay compensation.

6. The impugned order undoubtedly is a glaring example of violation of principle of natural justice and only on that score it cannot be allowed to remain in force.
7. With the aforesaid observation, I am inclined to invoke the inherent jurisdiction to quash the judgement qua the order of compensation given by the learned Trial Court to be paid by the State and to be recovered from S.I. Manik Kumar Kulia to avert abuse of process of law amounting to miscarriage of justice.
8. Thus, the criminal revision is disposed of, however, without any order as to costs.
9. The copy of the order be sent down to the learned Trial Court for information and necessary action.
10. The parties shall act upon the server copy of the order duly downloaded from the official website of this Court.
11. Urgent Photostat certified copy of this order, if applied therefor, be supplied to the parties, upon completion of requisite formalities.

(SIDDHARTHA ROY CHOWDHURY, J.)