

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2602 OF 2022

X

...Petitioner.

Versus

The State of Maharashtra & Ors.

..Respondents.

Mr. Ashley Cusher, Advocate for petitioner.

Ms. M. M. Deshmukh, APP for Respondent-State.

Mr. Aditya Bapat, Advocate for Respondent No. 2.

CORAM : PRASANNA B. VARALE &
N. R. BORKAR, JJ.

Date : September 20, 2022.

P. C. :

1. By way of present petition, the Petitioner who was victim in Special Case No. 91 of 2015, is approaching this Court with the principal prayer contained in prayer clause (A), which reads thus :

"A. That this Hon'ble Court be pleased to issue writ of certiorari or any other appropriate writ, order or direction under Article 226 and 227 of the Constitution of India to the Respondent to pay compensation amount of Rs.50,000/- to the Petitioner, as per the Judgment and Order dated 17.11.2018 passed by the District Judge-2 & Additional Sessions Judge, Kalya in Case Atro. Special Case No. 91 of 2015 (State of Maharashtra vs. Vijaya Namdeo Thombare & 4 ors.)."

2. Copy of the judgment and order passed by the District Judge-2 & Additional Sessions Judge, Kalyan in Atrocity Special Case No. 91 of 2015 is annexed to the petition at Exhibit-A. In all 5 accused persons were charged with the commission of offences punishable under

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sections 354, 354A read with section 109, 366(A) of the Indian Penal Code, 1860, Sections 3(2), 3(3) punishable under section 3(2) of the Maharashtra Prevention and Eradication of Human Sacrifice and Other Inhuman Evil and Agori Practices and Black Magic Act, 2013 and under section 3 read with sections 18, 8, 7 read with section 17 of the Protection of Children of Sexual Offences Act, 2012. Learned Sessions Judge convicted accused nos.1, 2, 3 and 5, acquitted accused no.4 vide the judgment and order dated 17th November 2018. Learned Sessions Judge observed that XYZ (Petitioner herein) is entitled to claim compensation of Rs.50,000/- and the Maharashtra Government to pay it to the victim. In spite of the judgment and order passed by learned Sessions Judge, as there was no progress in disbursement of compensation to the victim, the Petitioner approached this Court by filing present writ petition. The matter was listed before this Court on 29th August 2022. Learned counsel Mr. Bapat caused appearance on behalf of Respondent No.2 – District Legal Services Authority, Thane and submitted before this Court that if the Petitioner appears before the said authority, the preliminary inquiry would be conducted. In turn, learned counsel appearing on behalf of the Petitioner submitted before this Court that the Petitioner will appear before Respondent No.2-authority within two weeks. It seems that the said exercise was undertaken by the authority and the Secretary, District Legal Services

Authority, Thane forwarded a communication to the Member Secretary, State Legal Services Authority, Mumbai on 15th September 2022. It appears that 3 victim's claims have been forwarded and it is requested to the Secretary, State Legal Services Authority to release the total amount of Rs.2 lakh against the compensation claims. Out of Rs. 2 lakh, the Petitioner – XYZ is entitled for an amount of Rs. 50,000/-. In the communication, reference is also made to the present writ petition. Copy of the said communication dated 15th September 2022 is taken on record and marked "X" for identification.

3. On perusal of the notification issued by the State Government through the Home Department, dated 11th April 2014 and an amended notification dated 17th April 2017, it is revealed that the State Government has decided to constitute a special fund, namely, "the Victim Compensation Fund" from which the amount of compensation under this scheme shall be paid to the victim or their dependents. Clause 4 of notification dated 11th April 2014 reads thus :

"(4) the Victim Compensation fund shall be operated by the Secretary, Maharashtra State Legal Services Authority."

4. In view of the said notification and communication dated 15th September 2022, we hope and trust that the Member Secretary, State Legal Services Authority, Mumbai would take appropriate steps for

the release of compensation amount of Rs.50,000/- (Rs. Fifty thousand only) to the Petitioner – XYZ as early as possible and not later than two weeks from the receipt of a copy of this order.

5. With the above observations and directions, the petition is disposed of.

6. In case the petitioner is of the opinion that the amount of compensation awarded to her is inadequate, she may avail appropriate remedies under the provisions of law and approach the appropriate forum(s) for such claim.

[N. R. Borkar, J.]

[Prasanna B. Varale, J.]