

January 30, 2023
Item No. 16
Court No.1
PA(RB)

WPA (P) 154 of 2022
with
CAN 2 of 2022
CAN 3 of 2022

Anindya Sundar Das

vs.

The State of West Bengal & Ors.

Mr. Phiroze Edulji,
Mr. Debapriya Samanta,
Mr. Mrinal Das, Advocates

... for the petitioner

Mr. S.N. Mookherjee, ld. A.G.
Mr. Tapan Kumar Mukherjee, ld. AGP
Ms. Sangeeta Roy, Advocate

... for the State

Mr. Dhiraj Trivedi,
Mr. Ayanabha Raha, Advocates

... for the Union of India

Mr. Billwadal Bhattacharyya, ld. DSG

... for the CBI

This public interest petition was filed highlighting the incident of rape of a 14 year old girl which led to her death in Shyamnagar in Hanshkhali in the Nadia District of the State of West Bengal. The petitioner was seeking transfer of investigation to the CBI. This Court by order dated 12th of April, 2022 had directed the investigation by the CBI. Thereafter, progress reports were filed from time to time. This Court had noted in the proceedings dated 2nd of August, 2022 that the investigation was over and charge-sheet was filed on 8th of July, 2022. Hence, it was found that so far as the issue of investigation was concerned, nothing further was required to be

done and the matter was kept pending for consideration of CAN applications.

CAN 3 of 2022 has been filed by the petitioner with a prayer to grant interim compensation to the family and the victim girl to the tune of Rs. 1 crore.

Learned counsel for the applicant has referred to paragraph 8 of the CAN application and has submitted that Rs. 1 crore interim compensation is required to be given under four different heads which are disclosed in that paragraph. He has submitted that this Court should exercise the power and grant interim compensation as mentioned in paragraph 8 of the CAN application. He submits that plea taken in paragraph 8 of the CAN application has not been specifically denied, therefore, in terms of order 8 rule 3 of the CPC read with rule 53 of the Calcutta High Court Appellate Side Rules, the pleadings are deemed to be admitted and accordingly compensation should be awarded.

Learned Advocate General has opposed the application and has said that interim compensation to the satisfaction of the parents of the victim girl has already been paid and, therefore, nothing further is required to be done on the prayer of the PIL petitioner. He submits that this is not a form for seeking interim compensation. He has also

submitted that plea taken in paragraph 8 of the CAN application has not been verified to be true to personal knowledge. He has further submitted that the NLSA Scheme, 2018 in respect of award of compensation exists which is applicable in the State in view of the judgment of the Hon'ble Supreme Court in the matter of **Nupur Saxena and Another vs. Union of India and Others** reported in **(2020) 18 SCC 499** and that the order of awarding interim compensation is not under challenge.

We have heard learned counsels for the parties and have perused the record.

Undisputedly, the Criminal Injury Compensation Board comprising of the learned District and Sessions Judge, Nadia, Chief Medical Officer of Health, Nadia, Additional District Magistrate (General), Nadia, Additional Superintendent of Police, Ranaghat and representatives of the CBI, has considered the issue of interim compensation in its meeting dated 5th of May, 2022 and after taking note of the circumstances of the case has found it sufficient to award Rs. 5 lakhs as interim compensation to the parents of the victim for the death and rape of their daughter. The minutes of the meeting of the Board record that the parents were satisfied with the

quantum of compensation. The parents have not come forward disputing the same or claiming higher amount of interim compensation.

Under Section 357 of the Cr.P.C., Trial Court is empowered to award compensation on conclusion of trial. Section 357A of the Cr.P.C. provides for victim compensation scheme and sub-section 3 thereof empowers the Trial Court, at the conclusion of trial, to make recommendation for compensation.

During the course of argument, NLSA's Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes – 2018 has been placed on record. In the matter of **Nupur Saxena (supra)**, Hon'ble Supreme Court has considered the Scheme prepared by NLSA and has expressed that it should be implemented by all the State Governments and Union Territories administrations. Nothing has been pointed out to show that the interim compensation awarded is not in terms of the Scheme.

So far as the judgment in the matter of **Suresh and Another vs. State of Haryana** reported in **(2015) 2 SCC 227** relied upon by the learned counsel for the applicant is concerned, that was a case where the issue of compensation had come up while deciding the appeal against the conviction and

sentence. In the present case, the trial is yet to take place and therefore, benefit of the said judgment cannot be extended to the applicant. Learned counsel for the applicant has also placed reliance upon the Single Bench judgment of this Court in the matter of **Piyali Dutta vs. The State of West Bengal & Ors.** reported in **2017 SCC OnLine Cal 8743** but the issue involved therein was entirely different in respect of the applicability of Section 357A of the Cr.P.C. and West Bengal Victim Compensation Scheme, 2017 and the Victim Compensation Scheme, 2012 as acid incident therein had happened in 2005 much prior to that. Hence, that judgment has no application in the facts of the present case.

It is also worth noting that the decision of the Criminal Injury Compensation Board is not under challenge in this application.

In the above circumstances, we find no ground to accept the prayer for grant of interim compensation to the tune of Rs. 1 crore or to interfere in the order of the Criminal Justice Compensation Board. We make it clear that this order will not affect the right of the effected parties to claim compensation and award of final compensation by the competent Court in appropriate proceedings.

Hence, CAN 3 of 2022 is disposed.

Accordingly, WPA (P) 154 of 2022 is also disposed of.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]