



#S-11

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 10.07.2023

CRL.A. 460/2023

STATE

..... Appellant

Versus

MUNESH PAL

..... Respondent

Advocates who appeared in this case:

For the Appellant : Mr. Laksh Khanna, APP for the State along with S.I. Mohit Bansal, P.S.: Aman Vihar.

For the Respondent : None

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE GAURANG KANTH

J U D G M E N T

SIDDHARTH MRIDUL, J. (OPEN COURT)

CRL.M.A. 15735/2023 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CRL.A. 460/2023 & CRL.M.A. 15734/2023 (condonation of delay in filing the appeal)



1. The present appeal under Section 377 of Criminal Procedure Code (Cr.P.C.), 1973, has been instituted on behalf of the appellant, praying as follows:-

“In these facts and circumstances, it is, therefore, most humbly prayed that the Hon'ble Court may be pleased to:

a. Partially modify the impugned order on sentence dated 9.3.22 passed by the Learned Sh. Suresh Kumar Gupta, Principal District and Sessions Judge North West District, Rohini Courts, New Delhi in SC No.162/18 titled as 'State v. Munesh Pal' in FIR No. 1249/2017, dated 24.11.2017 lodged at Police Station: Aman Vihar under Section 307 IPC read with Section 27 of Arms Act to the extent of non-compliance of the mandatory directions passed by this Hon'ble Court in Karan v. State, CrI. A. 352/2020 Karan v. State NCT of Delhi dated 27.11.2020.; and,

b. pass such other or further orders as deem fit and proper in the facts and circumstances of the case.”

2. At the outset, it is relevant to observe that, the present appeal has been instituted on behalf of the State, assailing the order on sentence dated 09.03.2022, passed by the learned Principal District & Sessions Judge, North West District, Rohini Courts, New Delhi in SC No. 162/2018, titled '*State vs. Munesh Pal*', whereby the learned trial court has declined their prayer seeking reimbursement of Rs.10,810/- (Rupees Ten Thousand Eight Hundred Ten Only), assertedly incurred by them in conducting the subject proceedings.



3. Mr. Laksh Khanna, learned APP appearing on behalf of the State, invites our attention to the directions issued by the Full Bench of this Court in the case of '*Karan vs State*' (Crl.A. 352/2020, decided on 27.11.2020), and in particular, the paragraph No. 174, to urge that the learned trial court ought to have directed Munesh Pal, the respondent/convict to reimburse the sum of Rs.10,810/-, expended by the State in prosecuting the convict, before the learned trial court. The relevant portion of the ratio is extracted herein below for the sake of completeness:-

"173. After the conviction of the accused, the Trial Court shall **direct the accused to file the affidavit of his assets and income in the format of Annexure-A within 10 days.**

174. After the conviction of the accused, the Court shall also direct the State to disclose the expenses incurred on prosecution on affidavit along with the supporting document within 30 days.

175. Upon receipt of the affidavit of the accused, the Trial Court shall immediately send the copy of the judgment and the affidavit of the accused in the format of Annexure-A and the documents filed with the affidavit to DSLSA.

176. Upon receipt of the judgment and the affidavit of the accused, **DSLSA shall conduct a summary inquiry to compute the loss suffered by the victims and the paying capacity of the accused and shall submit the Victim Impact Report containing their recommendations to the Court within 30 days.** Delhi State Legal Services Authority shall seek the necessary assistance in conducting the inquiry from SDM



concerned, SHO concerned and / or prosecution who shall provide the necessary assistance upon being requested.

177. The Trial Court shall thereafter consider the Victim Impact Report of the DSLSA with respect to the impact of crime on the victims, paying capacity of the accused and expenditure incurred on the prosecution; and after hearing the parties including the victims of crime, the Court shall award the compensation to the victim (s) and cost of prosecution to the State; if the accused has the capacity to pay the same. The Court shall direct the accused to deposit the compensation with DSLSA whereupon DSLSA shall disburse the amount to the victims according to their Scheme."

4. Furthermore, in all fairness, Mr. Laksh Khanna, learned APP appearing on behalf of the State, has also invited our attention to the findings arrived at by the learned trial court *qua* their claim seeking reimbursement of expenses and the directions issued by the learned trial court *vide* order dated 09.03.2023, which is reproduced herein below for the sake of completeness:-

"5. The prosecution has filed an affidavit that State has incurred an expenses of Rs.10,810/- in the prosecution of the case. The victim impact report is received from the Secretary, DLSA, North West District which shows that accused has taken an auto rickshaw on installments. He is earning approximately Rs.10,000/- pm. The house, in which convict is residing, is in the name of his wife. The victim has undergone treatment for around one month who earns around Rs.11,000/- pm.

6. The convict is an auto driver. The approximate earning of convict and victim is



reflected in the victim impact report. The victim has sustained injuries who needs to be compensated.

7. The report from the Deputy Superintendent, Central Jail No.8 and 9, Tihar, New Delhi shows that convict was admitted to jail on 25.11.2017 and released on 05.05.2018.

8. Hence, keeping in view all these facts, convict Munesh Pal is sentenced to undergo RI for three years u/s 307 IPC with fine of Rs. 10,000/- and in default of payment of fine to undergo SI for two months. Benefit of Section 428 Cr.P.C. is granted to the convict.

9. The convict is also directed to pay compensation of Rs. 10,000/- to the Victim / complainant Govind and in default of payment of compensation, the convict shall undergo SI for 2 months in addition to the sentence mentioned above.

10. Fine and compensation paid in the courtroom. Notice be issued to the victim / complainant in order to release the compensation."

6. On a conspectus of the decision of Karan (*supra*) extracted herein above, read in conjunction with the directions issued by the learned trial court *vide* order dated 09.03.2023, we are axiomatically of the considered view that the learned trial court while adjudicating on the amount of expenditure incurred by the prosecution, has to consider and rely upon the victim impact report of the DSLSA and after hearing both the parties shall award the compensation to the victim and the cost of prosecution to the State.



7. Hence, keeping in view the facts of the present case, it clearly and unequivocally leads to one inescapable conclusion, that the convict belongs to socially and economically under-privileged section of the society and is barely able to meet out the livelihood as an auto driver for himself and his immediate family.

7. Consequently, we are of the considered view that the directions issued by the learned trial court, are cogent and lawful in the facts and circumstances antecedent and attendant and do not warrant any interference by this Court, in the present appeal.

8. No further relief is prayed for.

9. The appeal instituted on behalf of the State, is devoid of merits and is accordingly dismissed. The pending application also stands disposed of.

10. A copy of this judgment be uploaded on the website of this Court.

**SIDDHARTH MRIDUL
(JUDGE)**

**GAURANG KANTH
(JUDGE)**

JULY 10, 2023/rs

[Click here to check corrigendum, if any](#)