

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.

218

CWP-18701-2018 (O&M).
Date of Decision: 16.01.2024.

INDU DEVI

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. S.S. Sodhi, Advocate, for
Mr. S.P. Yadav, Advocate, for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana,
for respondents No.1 and 3.

Mr. Munish Behl, Advocate, for respondent No.2.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present writ petition is for seeking directions to the respondents to compensate the petitioner, being mother of a victim of crime, for her rehabilitation and livelihood.

Briefly summarized the facts of the present case are that the minor daughter of the petitioner herein was a student of primary school and when she had gone to leave a rat caught in trap, in the nearby area, the accused persons kidnapped her and committed gang rape upon her. They subsequently throttled her to death. Her body was recovered from near the house of the one of the accused. An FIR No.190 dated 01.11.2014 was

registered under Sections 363, 366A, 302, 201, 376A and 376D of the Indian Penal Code, 1860, read with section 6 of Prevention of Children from Sexual Offences (POCSO) Act, 2012, at Police Station Ateli, District Mahendergarh. The identified accused persons were arrested and vide judgment dated 18.01.2017, capital punishment was imposed upon the accused persons. The daughter of the petitioner was aged 9 years at the time of incident when she was subjected to brutal assault by the accused persons. Accordingly, a prayer for compensation has been made on behalf of her by the petitioner under the Haryana Victim Compensation Scheme, 2013.

A written statement by way of an affidavit of Member Secretary, Haryana State Legal Services Authority (HSLSA) has been filed on behalf of respondent No.2 wherein the aforesaid factual aspects have not been disputed. It is contended that an application had been moved by the petitioner on 15.02.2017 under Section 357 Cr.P.C. for awarding compensation. The same was marked to the Secretary, District Legal Services Authority, Narnaul, for information and further action.

A compensation of Rs.5 lakhs was awarded by the District Legal Services Authority, Narnaul under the Haryana Victim Compensation Scheme, 2013 in favour of the petitioner vide order dated 13.06.2017. The petitioner submitted an affidavit regarding her income and that she had not received any compensation from any other source. An application was thereafter moved by the petitioner for release of the above said compensation amount in her bank account. An undertaking as stipulated in law was also submitted by her. Consequent thereto the disbursement of the above said assessed amount of compensation was ordered on 09.08.2017

and cheque No.390791 dated 09.08.2017 for the said amount was issued in favour of the petitioner herein and the same already stands credited to her account. It is contended that the petitioner has approached this Court without disclosing the aforesaid aspect and/or challenging the order whereby the compensation has been assessed at Rs.5 lakhs in favour of the petitioner in terms of the Haryana Victim Compensation Scheme, 2013. It is further argued that the petitioner having chosen not to impugn the said compensation and/or point out any reasons as to how the said compensation is not in consonance with the Scheme, the prayer would be unsustainable at this juncture.

Learned counsel appearing for the respective parties have been heard and the documents appended along with the present writ petition as well as the reply have been perused.

The claim of the petitioner is that compensation ought to be awarded to her in terms of the Haryana Victim Compensation Scheme, 2013. The schedule attached to the above said scheme prescribed a compensation to the tune of Rs.3 lakhs on account of loss of life with respect to a victim below 40 years of age and also stipulates a compensation of Rs.3 lakhs on account of rape. The respondent No.2-DLSA has awarded a compensation of Rs.5 lakhs to the petitioner whereas in the instant case not only the offence of rape had been committed upon minor daughter of the petitioner but she was also throttled to death. Accordingly, the admissible compensation on both these accounts i.e. loss of life as well as rape comes to Rs.6 lakhs. As against the above, only a compensation of Rs.5 lakhs has been awarded to the petitioner. The respondents No.2-DLSA

is accordingly directed to pay an additional compensation of Rs.1 lakh to the petitioner within a period of one month of receipt of a certified copy of this order along with interest @ 6% per annum with effect from the date of filing of the present writ petition. The payment of compensation as a financial assistance to the petitioner is without prejudice to her other rights to pursue against the accused, as per law.

The present writ petition stands disposed of accordingly.

Pending, misc. application(s), if any shall also stand(s) disposed of accordingly.

January 16, 2024

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(VINOD S. BHARDWAJ

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No