

CWP-6513-2018

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214

CWP-6513-2018

Date of decision: 15.04.2024

Husna Begam

...Petitioner

Versus

State of Punjab & ors.

...Respondents

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

Present : Mr. Sunny K. Singla, Advocate,
for the petitioner.

Ms. Harpriya Khaneka, D.A.G., Punjab.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for seeking modification of the award dated 21.09.2017 (Annexure P-4) passed by the Victim Compensation Committee, Sangrur and for seeking enhancement of the compensation in terms of the notification dated 15.10.2013 (Annexure P-2) issued by the Department of Home Affairs and Justice, Government of Punjab.

2. Learned counsel for the petitioner contends that two accused namely Sukhwinder Singh and Jagsir Singh had committed rape with the petitioner, for which FIR No.86, dated 05.06.2015 was registered under Section 376/34 IPC at Police Station Sadar Dhuri, District Sangrur. Vide judgment dated 19.02.2015, the accused persons were convicted and they were sentenced to undergo rigorous imprisonment for a period of 20 years and to pay a fine of Rs.55,000/- as well and in default of payment of fine, to further undergo rigorous imprisonment for a period of two years.

3. It is contended that respondent No.1-State of Punjab had

CWP-6513-2018

-2-

notified a Victim Compensation Scheme on 15.10.2013, as per which the petitioner is entitled to compensation to the tune of Rs.3,00,000/-, however, as against the same, only a compensation of Rs.1,00,000/- has been released. The present appeal has, thus, been filed.

4. Reply has been filed by the respondents, where it has been averred that under Sections 4 and 5 of the Victim Compensation Scheme, the eligibility criteria and procedure for grant of compensation to the victim or his dependents has been prescribed. Upon the consideration of facts of instant case in terms of the eligibility criteria and the procedure for grant of compensation, the Committee awarded a sum of Rs.1,00,000/- as compensation to the petitioner. Additionally a sum of Rs.1,00,000/- towards compensation was also awarded by the trial Court in favour of the petitioner, hence, the petitioner receives a total compensation of Rs.2,00,000/-. The State has already released its share of compensation to the tune of Rs.1,00,000/- and that remaining amount of Rs.1,00,000/- is to be released by the accused, who have already preferred an appeal before this Court against their conviction.

5. I have heard learned counsel for the parties and have gone through the documents.

6. The victim is entitled to a maximum compensation of Rs.3,00,000/- as per the Victim compensation Scheme notified by the State of Punjab on 15.10.2013. Even though the maximum compensation to which a victim is entitled to Rs.3,00,000/-, however, there is no mention in the impugned order as to why and under what circumstances, a meager compensation of Rs.1,00,000/- was assessed to be just and sufficient.

7. It is also noticed by this Court that the compensation awarded

CWP-6513-2018

-3-

by the trial Court has also not been released in favour of the petitioner so far.

8. I find that the impugned award dated 21.09.2017 is non-speaking as a compensation of Rs.3,00,000/- has been provided for a victim of rape. This is a case of gang rape and as such, there were aggravating circumstances in which a compensation on a higher side ought to have been awarded by the Committee. It is also noticed that the compensation awarded is of Rs.1,00,000/- after noticing that the same was to be paid by the accused, the said amount has not been released and thus, the appellant has been given the benefit only to the tune of Rs.1,00,000/-.

9. While allowing the present petition, it is directed that the petitioner is entitled to a total compensation Rs.3,00,000/- being a victim of gang rape at a young age of nearly 18 years and she has suffered lot of physical harassment and mental trauma also during cross examination. The compensation of Rs.3,00,000/- so awarded would exclude the compensation ordered by the trial Court to be paid to the petitioner, to the extent of Rs.1,00,000/-. However, the benefit of such compensation cannot be kept contingent to the accused depositing the same and to release only after as and when such deposit is made. Such an aspect would defeat the object of awarding such compensation as recovery of such rehabilitatory compensation from the violator would add agony to the ordeal and leave the victim to fend for herself in seeking recovery of compensation for her lost honour.

10. Respondent No.3-District Legal Services Authority, Sangrur is, thus, directed to release the total compensation of Rs.3,00,000/- to the petitioner. Since Clause 6 of the said Scheme entitles recovery of

CWP-6513-2018

-4-

compensation awarded to the victim or his dependent from the person responsible for causing loss or injury as a result of the crime committed by him, hence I am of the view that the compensation imposed upon the accused is also required to be discharged by the authority and it may later take recourse under provisions of Clause 6 of the Victim Compensation Scheme dated 08.12.2011 for seeking recovery of said compensation from the accused.

11. An appropriate affidavit in this regard shall also be furnished by the petitioner to the effect that in the event of a total compensation of Rs.3,00,000/- being disbursed by the District Legal Services Authority, Sangrur, the amount of Rs.1,00,000/- or above payable by the accused as compensation to the petitioner may be released in favour of the respondents, the District Legal Services Authority and that the petitioner have no objection to the same and she shall not place any claim to the same.

12. Accordingly, the present petition stands allowed.

15.04.2024
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(VINOD S. BHARDWAJ)
JUDGE

Whether reasoned/speaking:	Yes
Whether reportable:	Yes/No