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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.A. 163/2023**

STATE

.....Appellant

Through: Mr Yudhvir Singh Chauhan, APP for State
SI Shyam, PS-Burari

versus

AMAR NATH TIWARI

.....Respondent

Through: Mr Avdhesh Kumar Singh, Mr Rakesh Kumar and
Mr Chandan Kumar Jha, Advs. (through VC)

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

22.01.2025

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CRL.M.A. 4363/2023

1. This is an application seeking condonation of 135 days delay in filing the appeal.
2. In view of the submissions made by learned APP and for the reasons stated in the application, the delay of 135 days in filing the appeal is condoned.
3. The application is disposed of.

CRL.A. 163/2023

4. This is an appeal challenging the impugned order on sentence dated 11.11.2021 passed by learned Additional Sessions Judge-04 (Central), Tis Hazari Courts, Delhi wherein the appellant has been convicted in Sessions Case No. 287/2019 in FIR No. 478/2018, Police Station-Burari.
5. The limited ground of appeal by the State is non-compliance of the directions passed by this Court in *Karan v. State*, CRL. A. 352/2020.



6. As per the impugned judgment, the respondent was charged under Sections 452/306/506/324/427/34 IPC. Vide judgment dated 28.08.2021 the respondent was acquitted of all charges and was convicted for the offence under Section 506, part-I IPC.

7. On 11.11.2021, the appellant was sentenced for 2 years but since the respondent during trial had already undergone police and judicial custody of 1 year and 7 months, the respondent was given benefit of Section 428 Cr.P.C and released on the basis of imprisonment undergone. However, the learned Sessions Court was of the view that since no monetary loss was caused, the Court did not give any monetary compensation.

8. The State has challenged the sentence on the ground that no compensation was granted in view of the judgment of **Karan v. State**, CRL.A. 352/2020.

9. My attention has been drawn to the judgment of **Karan v. State**, CRL.A. 352/2020 passed by the Division Bench of this Court wherein it was held as under:

“Sections 357 & 357A of CrPC

159. Section 357 CrPC empowers the Court to award compensation to victims who have suffered by the action of the accused.

160. The object of the Section 357(3) CrPC is to provide compensation to the victims who have suffered loss or injury by reason of the act of the accused. Mere punishment of the offender cannot give much solace to the family of the victim – civil action for damages is a long drawn and a cumbersome judicial process. Monetary compensation for redressal by the Court finding the infringement of the indefeasible right to life of the citizen is, therefore,



useful and at time perhaps the only effective remedy to apply balm to the wounds of the family members of the deceased victim, who may have been the bread earner of the family.

161. Section 357 CrPC is intended to reassure the victim that he/she is not forgotten in the criminal justice system.

162. Section 357 CrPC is a constructive approach to crimes. It is indeed a step forward in our criminal justice system.

163. The power under Section 357 CrPC is not ancillary to other sentences but in addition thereto.

164. The power under Section 357 CrPC is to be exercised liberally to meet the ends of justice in a better way.

165. Section 357 CrPC confers a duty on the Court to apply its mind on the question of compensation in every criminal case.

*166. The word ‘**may**’ in Section 357(3) CrPC means ‘**shall**’ and therefore, Section 357 CrPC is mandatory.*

*167. The Supreme Court in **Ankush Shivaji Gaikwad** (supra) has given directions that the Courts shall consider Section 357 CrPC in every criminal case and if the Court fails to make an order of compensation, it must furnish reasons.*

Quantum of compensation

168. The amount of compensation is to be determined by the Court depending upon gravity of offence, severity of mental and physical harm/injury suffered by the victim, damage/losses suffered by the victims and the capacity of the accused to pay. While determining the paying capacity of the accused, the Court has to take into consideration the present occupation and income of the accused. The



accused can also be directed to pay monthly compensation out of his income.

Financial capacity of the accused

*169. Before awarding compensation, the Trial Court is required to ascertain the financial capacity of the accused. This Court has formulated the format of an affidavit to be filed by the accused after his conviction to disclose his assets and income which is **Annexure-A** hereto.”*

10. I have heard learned APP for State as well as learned counsel for the respondent.

11. The judgment clearly states that the purpose of compensation is perhaps a remedy which helps to apply balm to the wounds of the family. The punishment of the offender may not always give much solace to the family of the victim. However, while granting compensation the Court is required to see the gravity of the offence, the severity of the mental and physical harm suffered by the victim and also the financial capacity of the accused.

12. In the present case, the respondent has been acquitted of all charges and only convicted for the offence under Section 506, part-I IPC namely criminal intimidation. The order on sentence dated 11.11.2021 notes in para 3 that as per the inquiry conducted by District Legal Service Authority, the monthly income of the respondent is Rs. 5,000/- per month and his bank account is dormant. Since the respondent is having a meagre income of Rs. 5,000/- per month and the only charge against him is of Section 506, part-I IPC, in terms of judgment of **Karan (supra)**, I direct the respondent to pay a sum of Rs. 5,000/- to the Delhi State Legal Services Authority (‘DSLISA’) to



be transmitted to PW-6 i.e. mother of the victim within a period of six weeks from today.

13. The DSLSA will file a compliance report within a period of 12 weeks from today and in case the same is not done, the file be put up before the Court.

14. With these directions, the appeal is disposed of.

JASMEET SINGH, J

JANUARY 22, 2025

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Click here to check corrigendum, if any