

State Vs. Kuldeep Singh & Ors.

FIR No. 261/2021

PS : Delhi Cantt.

U/s: 302/304/376/341/506/201/34 IPC,

6 POCSO Act & 3 SC/ST Act

12.08.2021

This is an application u/s 357A of Cr. P.C seeking interim compensation, moved on behalf of the Kin of the victim, by Sh. Piyush Sachdava, Ld. Legal Aid Counsel from NDDLISA.

Present: Sh. Piyush Sachdeva, Ld. LAC from NDDLISA.
Sh. Jitender Jha and Sh. Suresh Kumar, Ld. Counsels for the informant (mother of the deceased child victim)
Sh. Yadvender Singh, Ld. Addl. PP for State (through VC).
Ms. Bedashree Borah, Ld. Counsel from DCW (through VC).
IO/ACP Richhpal Singh, ACP/IGIS, Crime Branch (through VC).

E-reply to the aforesaid application has been filed by the IO.

Heard. Perused.

The names of the parents of the victim and their address has been mentioned in the reply of the IO. The same be blurred immediately to protect the identity of the victim.

1. Relevant part of the application of the Ld. LAC is reproduced below:-

“.....FIR is pending investigation & the police is yet to apprehend any suspects.

2. That I am the mother of the victim in the present matter.

3. That my daughter is a victim of a heinous crime committed under several sections of the IPC, & POCSO.

4. That the victim was a 9 year old girl.

5. That the present application is filed seeking interim compensation under the Compensation Scheme for Women Victims/Survivors of Sexual Assault/ other Crimes-2018. That the family of the victim belongs to a very poor strata of the society and is in dire need of financial assistance from this Court..... ”

2. Relevant part of the reply filed by the IO is reproduced below:-

“.....case was registered on the statement of Mother of deceased.

contd...2/-

The complainant stated to Local Police that she originally belongs to Rajasthan but she has been residing in Delhi since childhood and at present she along with her daughter (Minor girl aged 9) and husband 'XF' resides near 'Z'. She used to work as a rag picker and also used to frequent a Majaar of Peer Baba along with her daughter (deceased). At times, she also used to do cleaning job inside the Shamshan Ghat and there was a water cooler installed inside which was giving electric shocks for last few days. She had brought the same in the knowledge of caretakers and people staying inside the Shamshan Ghat namely Pandit Radheshyam, Kuldeep, Lakshmi Narayan and Salim but the case was registered on the statement of Mother of deceased. The complainant stated to Local Police that she originally belongs to Rajasthan but she has been residing in Delhi since childhood and at present she along with her daughter (Minor girl aged 9) and husband 'XF' resides near 'Z'. She used to work as a rag picker and also used to frequent a Majaar of Peer y did not pay any heed stating that water cooler was very old and if anyone wanted to drink water they could drink the same from the taps installed over there. On 1.8.2021, at 8 AM, she along with her daughter came to the Majaar and at around 5:30 P.M, her daughter informed her that she was going to fetch water from electric water cooler installed at Shamshan Ghat. In the mean time, the complainant also went to her home. At around 6 PM, she went back to Peer Baba Majaar and she was called inside the Shamshan Ghat by Pt. Radheshayam and when she went inside where Pandit Radheshyam, Kuldeep and Lakshmi Narayan both resident of Purani Nagal and Salim who used to work in the Shamshan Ghat were standing there and her daughter was lying on a bench, whose left hand was burnt near the elbow and her lips had turned blue. Pandit Radheshayam informed her that her daughter got electrocuted while drinking water from the water cooler and died. She pleaded them to take her to hospital but they did not take her to hospital. Thereafter, Radheshayam asked about the whereabouts of her husband namely Mohan. The complainant informed Radheyshyam that her husband would be under Pankha Road flyover. Radhey shyam went on his scooty and also got her husband 'XF' to the place of occurrence i.e. inside the Shamshan Ghat. Then, pandit Radhshayam and the other persons told her that if she makes a PCR call then police will make a case out of it and in post mortem doctors will steal all organs of the girl and so it's better to cremate her. They also did not allow them to go outside and carried out cremation of the girl. After which she along with her husband raised hue and cry that the girl was cremated without their consent which resulted in gathering of crowd at the spot and someone made a PCR call. She further alleged that she had previously informed Radhey Shyam and others about the water cooler having

current, but they did not get the same repaired intentionally which resulted in death of her daughter.

*On the basis of the above statement of the complainant, a **case vide FIR No. 261/21 dated 02/08/2021 U/s 304/342/201/34 IPC was registered at PS Delhi Cantt.** and investigation was taken up. Pandit Radheshayam and his accomplices were taken in custody. FSL team and crime team were called at the spot for examination of the Scene of Crime and the place of occurrence. They inspected the SOC very minutely and lifted the exhibits. The same were taken in police possession through seizure memos. The remaining parts of already burnt/cremated dead body were picked up from the burnt pyre by the Crime Team and sent to DDU Hospital for post-mortem. Deceased's father 'XF' was also examined.*

During the course of investigation, on 02.08.2021, all the accused persons namely 1). Radhey Shyam S/o Lt. Hari Chand R/o RZ-11B/290, Gali No. 5C, Gitanjali Park, West Sagarpur, 2). Kuldeep Singh S/o Lt. Sh. Jeevan Singh R/o V-110, Old Nangal, Delhi Cantt., 3). Laxmi Narayan S/o Ram Chander R/o T-147, Old Nangal, Delhi Cantt. and 4). Saleem S/o Rashid R/o H. NO. 1, Lohia Pul, Distt. Banda, UP were interrogated and subsequently arrested and sent to Judicial Custody.

Statement of the mother of deceased was got recorded U/s 164 CrPC. Statement of father of deceased was also recorded. As per the statement u/s 161 CrPC of the father of the deceased wherein he stated that he was subjected to casteist slur (Bhangi, choti Jaat ke) by Pandit Radhe Shayam, when he tried to oppose the forced cremation of his daughter by the 4 accused persons, thus relevant sections of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (Section 3) were also added to the case. As the case carries the provisos of SC/ST act, the investigation of the case was transferred from local police and entrusted to ACP/DIU, South West District. Later, on 02/08/2021, a team of Hon'ble SC Commission visited the scene of incident and talked/interacted with the complainant, 'XM', the mother of the deceased girl and other members of the community who had gathered in large numbers near the Shamshan Ghat. The team of Hon'ble commission then conducted meeting with the senior police officers at PS Delhi Cantt. and directed to add section 302/376/506 IPC and 6 POCSO Act in the case. Consequently, the aforementioned sections were added in the case by the Local Police.

*Post-mortem of the deceased was got conducted from a board of doctors in DDU Hospital on 3/08/2021 vide PM no. 1139/2021 and exhibits have been collected. Post Mortem report has been obtained. As
contd...4/-*

per the PM Report, "no definite opinion can be ascertained with regard to any sexual assault on the body of the deceased. No definite opinion can be ascertained about the cause of death but it is very clear that the body was burnt after the death of deceased."

Thereafter, the present case was transferred to Crime Branch on 05.08.21 for conducting further investigation and subsequently marked to the under signed on the same day.

From the perusal of case file, on 01/08/2021 at 22.11 hrs, a PCR call vide D.D No. 107-A was received at P.S Delhi Cantt. Content of the same is, "CALLER NE BATAYA HAI KI SHAMSHAN GHAT WALON NE EK LADKI AGE 14-15 YEARS KE SATH GALAT KAAM KARKE JALA DIYA HAI--YAHAN POORA GAON IKKATHA HAI, Mobile no. 8826354278". The same was marked to ASI Ravinder for necessary action. Immediately after that at 22.20 PM, another PCR call vide D.D No. 108-A was received at P.S Delhi Cantt. Content of the same is, "CALLER BOL RAHA HH KI YHA SHAMSHAN GHAT KE PANDITON NE 11-12 SAL KI LADKI KE SATH RAPE KARKE AUR USKO MARKAR JLA DIYA H BODY ABHI SHAMSHAN GHAT ME JAL RAHI HAI--- Mobile no. 7303661907". The same was marked to SI Hari Ram for necessary action.

*During the course of investigation, the PCR forms of above two calls made in connection with the incident were obtained from CPCR, Haiderpur, Delhi. From the perusal of the PCR forms, it was revealed that the PCR van which responded to the above calls, reported back to Command Room/PCR that the mother of the deceased had told the PCR staff that" **MERI LADKI AGE 9 YR SHAM KO SHAMSHAN KE WATER COOLER SE PANI LENE GY THI JO KAFI DAR TAK WAPIS NHI AAYI KUCH DARE BAD SHAMSHAN KHAT KE PANDIT NE GHAR AA KR BTLAYA KI AAP KI BETI KO CURRENT LG LAYA HAI OR HUM SHAMSHAN GHAT GYE JO HMARI MARJI KE BINA PANDI NE HMARI BATI KA DA SANSKAR KR DIYA LADKI KI MAA BTLA RAHI HAI KI SAMSHAN GHAT KE 2 PANDITO NE MERI BETI SE RAPE KIYA HAI OR BINA HMARI MARJI KE HMARI BETI KA ANTIM SANSKAR SURU KR DIYA."***

During the course of investigation, PCR callers namely 1) X1. and 2) X2 . were examined and their statements were recorded.

Thereafter, they all reached at Shamshan Ghat and found that pyre of deceased was still burning and all the four accused persons were present at the SOC. Thereafter, public made PCR call and Police reached the SOC.

Public witness namely 1) Rahul s/o Raju r/o r/o T-94, Old Nangal Village, Delhi Cantt., Delhi 2) Nitin Bagga s/o Omkar r/o T-102, Old Nagal, Delhi Cantt., Delhi 3) Anil Kumar s/o Rooplal r/o V-16, Old Nangal, Delhi Cantt. Delhi 4) Hardayal Singh s/o Lt. Sh. Jagdish r/o V-6/V, Old Nangal, Delhi Cantt., Delhi 5) Simran w/o Amit r/o P-17, Old Nangal, Delhi Cantt., Delhi were examined and they also corroborated the version of the complainant as well as other witness.

During the course of investigation, on 09.08.2021, the statement of deceased Mother was also recorded. Five days PC remand of all the four accused persons was obtained from the Hon'ble Court.

During the course of PC remand, the clothes of all the accused persons which they were wearing at the time of incident were seized. Their mobile phones were also recovered and subsequently seized. Their potency test was got conducted. Their blood on gauge was obtained and seized. Their separate disclosures were recorded..... ”

3. To my specific query, the IO has stated that the disclosure statements of the four accused persons have revealed that accused Radhey Shyam and accused Kuldeep Singh had raped & killed the minor child victim and that the remaining two accused persons, namely Salim Ahmad and Laxmi Narayan, had helped them in trying to cremate the deceased minor child. The IO has further admitted that neither any statement of any eye-witness nor any other evidence, including medical or scientific, could be collected so far to confirm as to whether the victim child was raped or not. He has further submitted that at this stage, he cannot conclusively say as to whether the victim child was raped or not.

4. Section 375A (1) Cr. P.C provides that every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of

compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who, require rehabilitation.

To that effect, Rule 12 of Part II of Delhi Victim Compensation Scheme, 2018 provides that the interim relief granted shall not be less than 25% of the maximum compensation awardable as per schedule applicable to Part II.

As per the schedule applicable to Part II of the Delhi Victim Compensation Scheme 2018, the maximum compensation awardable in case of loss of life is Rs. 10 lakhs. Hence, the informant (mother of deceased victim child) is entitled to be considered for interim compensation of 25 % of Rs. 10 lakhs i.e. Rs. 2,50,000/-.

5. Considering the aforesaid facts and circumstances, this Court is of the opinion that interim compensation of Rs. 2,50,000/- should be immediately disbursed in favour of the informant by NDDLSA.

6. As regards the interim compensation on the additional ground of the alleged rape of the victim, in view of the submissions of the IO and in view of the fact that the investigating agency itself is not sure as to whether the victim was raped or not, the interim compensation qua the same is not allowed at this stage. However, liberty is granted to move a fresh application to that regard, in case the investigating agency collects further material or comes to the conclusion that the victim child was raped. Application is accordingly disposed of.

7. Copy of this order be sent to the Ld. Secretary, NDDLSA for compliance. Dasti to all concerned.

This Court is satisfied qua the audio & video connectivity of the video conference hearing.

(Ashutosh Kumar)
ASJ-01/Special Court POCSO
NDD/PHC/ND/12.08.2021/B