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WP.(MD)No.19947 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

WP (MD)No.19947 of 2019

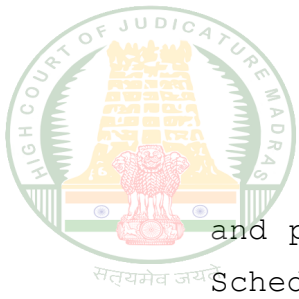
P.Vijayabharathy : Petitioner

Vs.

- 1.The District Collector-cum-District Magistrate,
Dindigul District,
Dindigul-624 001.
- 2.The Deputy Superintendent of Police,
DSP Office,
Palani Sub Division,
Dindigul District.
- 3.The Inspector of Police,
Chathirapatty Police Station,
Dindigul District.
(Crime No.55 of 2014) : Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a direction in nature of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent vide office proceedings in Na.Ka.No. 4929/2015/H5, dated 13.05.2019 and quash the same as illegal and consequently, direct the respondents to grant the relief of amount Rs.1,95,000/- (after deducting Rs. 1,80,000/- already disbursed from the 75% of the total relief Rs.5,00,000/- meant for the victim Caste Atrocities

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and per the Rule 12(4), Annexure-1, Serial Number: 44 of the Scheduled Caste and Scheduled Tribes Prevention of Atrocities Amendment Rules, 2016 to the petitioner within a stipulated time that may be fixed by this court.

For Petitioners : Mr.R.Karunanidhi
for Mr.A.Sahaya Philomin Raj

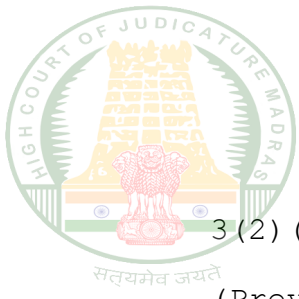
For Respondents : Mr.B.Nambi Selvan
Additional Public Prosecutor

ORDER

This writ petition has been filed seeking quashment of the impugned order passed by the 1st respondent vide office proceedings in Na.Ka.No.4929/2015/H5, dated 13.05.2019 and consequently, direct the respondents to grant the relief of amount Rs.1,95,000/- (after deducting Rs.1,80,000/- already disbursed from the 75% of the total relief Rs.5,00,000/-) to the petitioner within a stipulated time that may be fixed by this court.

2.The facts in brief:-

The petitioner is the de-facto complainant as well as the victim in Crime No.55 of 2014, which was registered for the offences under sections 417, 376 IPC r/w 3(2)(1) and



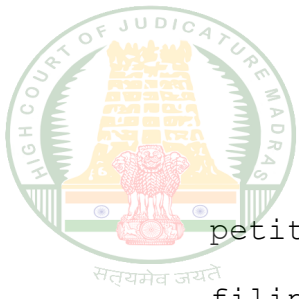
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3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2014. After investigation, final report was filed and taken cognizance in Special SC No.42 of 2019 and now, it is pending before the Special Court, Dindigul.

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3.The petitioner belongs to Hindu Sakkiliyar caste, which falls under the Scheduled Caste community and the accused belongs to Hindu Maravar community. Seeking compensation amount, the petitioner filed CrI.OP(MD)No. 20074 of 2014 under the victim relief fund scheme. This court directed the concerned official respondent to disburse Rs.1,80,000/-, which was fixed by the Ministry of Social Justice & Empowerment. It has been observed by this court that the amount was increased from Rs.1,20,000/- to Rs.1,80,000/-. In pursuance of the above said direction, the petitioner approached the respondents, but they disbursed only Rs.60,000/-. As per the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Rules, 2016, the petitioner is entitled for the relief and compensation of Rs.5,00,000/-. 50% of the amount must be disbursed soon-after the completion of the medical test. 25% must be disbursed at the time of filing the final report. Totally Rs.3,75,000/- is to be paid to the

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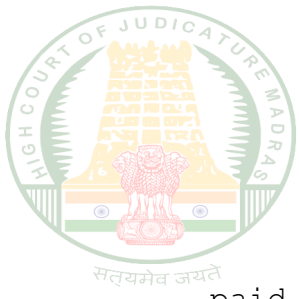
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petitioner. Again, she approached this court by way of filing in Cr1.OP(MD)No.2 of 2018 and that was disposed by this court, by directing the first respondent to consider the petition in the light of the observation. It has been observed by this court that since it is the welfare legislation, even though the occurrence took place before 2006, considering the benevolent provisions, the compensation amount can be disbursed to the petitioner as per the amended Rules. Again, he made a representation on the basis of the above said order, on 30/05/2009. The first respondent passed an order in Na.Ka.No.4929/2015/H5 stating that Rs.1,80,000/- was paid and no more amount can be paid. Now seeking quashment of the order in Na.Ka.No.4929/2015/H5 and directed the respondents to grant Rs.1,95,000/-, this petition is filed.

4.Heard both sides.

5.This petition was heard and repeatedly adjourned seeking proper response from the first respondent and the first respondent insisted that the petitioner is not entitled for compensation amount, which was raised as per the amended Rule. In 2016, the amendment came into effect, by which the victim is entitled to Rs.5,00,000/-, as compensation and relief.

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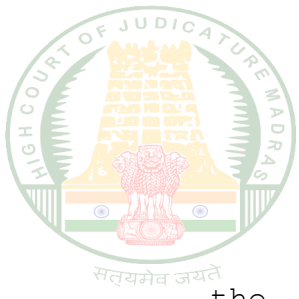


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6.As mentioned in the preamble portion, 50% is to be paid soon-after the completion of the medical examination and 20% must be paid when the final report has been filed. Now what is the stage of process in not known.

7.Now the learned counsel appearing for the petitioner would submit that even though the enhanced amount came into effect in 2016, taking note of the beneficial piece of legislation, which was intended to protect the sufferers of the downtrodden people belongs to SC/ST community, the benefit must be granted retrospectively. Even though the offence said to have been taken place in 2014, but the only thing must be taken note. When the amendment came into effect, in 2018, which was raised to Rs.1,80,000/-, that was also paid to the petitioner, as per the order in CrI.OP(MD)No.20074 of 2014.

8.Not stopping with that, she again filed CrI.OP(MD)No.2 of 2018, when the amendment came into effect with effect from 27/06/2018, seeking compensation amount of Rs.5,00,000/-. This court, by taking note of the benevolent provisions has directed the authorities to consider the request in the light of the amended rule.



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9.As mentioned earlier, the stand that was taken by the first respondent is that such enhancement of compensation is not permissible, since the occurrence took place in 2014. As mentioned earlier, the stage of the trial process is not clear on record. The petitioner cannot be permitted to go on filing repeated petitions seeking direction or revisions seeking enhancement amount as and when the relief of compensation is enhanced periodically as the case may be. Such an attempt on the part of the petitioner must also be curtailed. In short, this court wants to place on record that the petitioner should not be permitted to go on filing repeated petitions, whenever enhancement is announced by the Government under the provisions of law. But however, I am of the considered view that already, there is a direction by this court to consider the representation of the petitioner in the light of the observation. The observation in Cr1.OP(MD)No.2 of 2018 runs like this;-

“6.The Legislature thought it fit to bring in certain remedial measures in order to safeguard the victims, who suffered due to the backwardness and due to the fact that they belong to the Scheduled Caste and Scheduled Tribe Community. A beneficial pice of legislation must be interpreted in



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a purposive manner which would effectuate the object of the welfare legislation and the court must be always lean in favour of applying the beneficial measures that have been given to victims, even in cases where the incident had happened before 2016. Therefore, this court is not in agreement with the submissions made by the learned Government Advocate (Crl. Side) to the effect that this rule cannot be taken advantage by the petitioner and the petitioner is not entitled for claim victim compensation in accordance with the rules, which came into effect only in the year 2016.

7.The petitioner has given a representation dated 31.10.2016 to the first respondent. In the said representation, the petitioner has stated the entire facts and has also sought for payment of the balance amount in tune with the Rule 12(4) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Rules, 1995."

8.The first respondent is directed to consider the said representation in the light of the above observation and pass necessary orders within a period four weeks from the date of receipt of a copy of this order."



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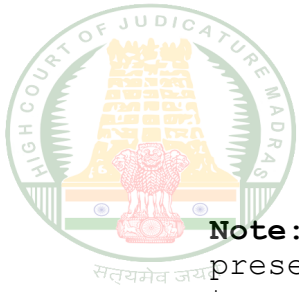
10. Even though it is not a positive direction, it appears that the view of this court has been stated in a particular manner. That was not properly considered by the first respondent. So the order passed by the 1st respondent in Na.Ka.No.4929/2015/H5, dated 13/05/2019 is liable to be quashed and accordingly, it is quashed and the first respondent is directed to pay and disburse the remaining amount of Rs.1,95,000/- to the petitioner within a period of two months from the date of receipt of a copy of this order. It is made clear that the petitioner will not be permitted to file repeated petitions seeking a similar relief, whenever enhancement of the relief or compensation is ordered in future by the Government by way of amendment. No costs.

12. With the above observation, this petition is **allowed**. No costs.

11.03.2022

Internet: Yes/No
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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

- 1.The District Collector-cum-District Magistrate,
Dindigul District,
Dindigul-624 001.
- 2.The Deputy Superintendent of Police,
DSP Office,
Palani Sub Division,
Dindigul District.
- 3.The Inspector of Police,
Chathirapatty Police Station,
Dindigul District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G . I L A N G O V A N , J . ,

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