
(2014) 04 JH CK 0088
In the Jharkhand High Court
Case No : W.P. (C) No. 5645 of 2013

Baronika Bodra

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 01-04-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 376
Protection of Human Rights Act, 1993 — Section 18

Citation : (2014) 3 JLJR 502

Hon'ble Judges : R. Banumathi, C.J;S. Chandrashekhar, J

Bench : Division Bench

Advocate : Jai Shankar Tripathi, Advocate for the Appellant; Shivani Verma, J.C. to A.G, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

1. The present writ petition is filed seeking for a direction upon the respondents to pay Rs. 4 lacs as outstanding compensation to the petitioner as directed by the National Human Rights Commission, New Delhi, (in short N.H.R.C.) for custodial death of the petitioner's husband and further seeking for a direction upon the respondents to pay a further compensation of Rs. 10 lacs to the petitioner, since Rs. 5 lac compensation awarded by N.H.R.C. is inadequate.

2. Brief facts of the case are that one Rebka Topno, wife of Rawt Topno had filed a criminal case, which was registered as FIR No. 21 dated 23.2.2009 in Murhu Police Station for the offence u/s 376 I.P.C. and the petitioner's husband, Nobel Bodra, was arrested by the Investigating Officer on 23.2.2009 and kept in the police custody. The deceased, Nobel Bodra, was subjected to custodial torture by the police officers, due to which the deceased, Nobel Bodra, died in police custody on 24.2.09 at Murhu Police Station. The deceased, Nobel Bodra, was survived by the following kins:-

3. In FIR No. 21 dated 23.2.09, final report was filed and in the criminal case, all the witnesses have turned hostile and the co-accused, Sudarsan Ayend was

acquitted. Therefore, it is the case of the petitioner that a false case was filed against the deceased only for the purpose of harassing him, as a result of which he died in the police custody on 24.2.09. After the death of the deceased, Nobel Bodra, a U.D. case was registered as Murhu Police Station case No. 1/2009 dated 24.2.09. The death of deceased, Nobel Bodra, in police custody, was also reported in various newspapers including in Prabhat Khabar (Hindi Edition) newspaper dated 25.02.09. The father of the deceased, namely, Iliyas Bodra, filed complaint before the National Human Rights Commission, New Delhi and the N.H.R.C. sent the communication stating that State of Jharkhand has paid monetary relief of Rs. five lakhs to the petitioner and that the complaint is closed since the recommendation is complied with.

4. The grievance of the petitioner is that she has not been paid Rs. 5 lacs as recommended by the National Human Rights Commission, New Delhi, instead she was paid Rs. 1 lac through cheque. According to the petitioner, the custodial death of the petitioner's husband was due to harassment and torture while being in police custody and therefore, the respondent-State of Jharkhand is liable to pay compensation to the petitioner. The petitioner filed the writ petition seeking direction upon the respondents (i) to pay Rs. 4 lacs as outstanding compensation to the petitioner as directed by the National Human Rights Commission, New Delhi, for custodial death of the petitioner's husband and (ii) to pay a further compensation of Rs. 10 lacs to the petitioner as Rs. 5 lacs compensation awarded by the National Human Rights Commission, New Delhi, is inadequate.

5. We have heard Mr. Jai Shankar Tripathi, learned counsel for the petitioner and Ms. Shivani Verma, learned counsel appearing for the respondents-State.

6. From the materials submitted by the petitioner, it is seen that on receipt of the complaint of Sri Iliyas Bodra, the father of the deceased, Nobel Bodra, on 17.08.2011, the National Human Rights Commission has inter alia, observed and held as under:

The Government of Jharkhand was asked to show cause why monetary relief u/s. 18 of the Protection of Human Rights Act. 1993 be not given to the next of kin of Nobel Bodra who committed suicide in the lockup of P.S. Muhru, Khunti. The State Government has conveyed that it has no objection.

In view of the concession made by the State Government, we recommend that an amount of Rs. One lakh be paid to the next of kin of the deceased as monetary relief. Compliance report with proof of payment be submitted within two months.

7. Thereafter, the National Human Rights Commission passed the final order on 5.6.2012, which is quoted herein below:

With reference to your complaint dated 27/5/2009, I am directed to say that the matter was considered by the Commission on 25/04/2012. The Commission has made the following direction.

Noble Bodhara who died in police custody at P.S. Murhu, Khunti, Jharkhand was survived by his wife. The monetary relief of Rs. five lakhs has been paid by the Government of Jharkhand to his wife Smt. Baronika Bodhara in pursuance of recommendation made by us. The proof of payment has also been sent by the State Government.

Since the recommendation has been complied with, the case is closed.

8. On perusal of order dated 17.08.2011 and final order dated 5.6.2012 by N.H.R.C. (Annexure 8), it is seen that the N.H.R.C. has not considered the complaint of Sri Iliyas Bodra on the merit of the matter. It appears that in view of the concession made by the State Government, the Commission has recommended an amount of Rs. 1 lac to the next kin of Sri Iliyas Bodra, as monetary relief. Thereafter by order dated 5.6.2012, the Commission has recorded the payment of Rs. 5 lakhs to the petitioner-Baronika Bodra, wife of deceased Nobel Bodra. There seems to be a typographical mistake in order dated 5.6.2012 passed by N.H.R.C. in observing that "the monetary relief of Rs. five lakhs has been paid by the Government of Jharkhand to his wife Smt. Baronika Bodhara..." instead of recording that "the monetary relief of Rs. one lakhs has been paid.....". However, considering the amount of compensation Rs. five lakhs as inadequate, the petitioner filed this writ petition praying for enhancement of compensation and also for payment of rest compensation of Rs. 4 lakhs.

9. Hence, this writ petition is disposed of giving liberty to the petitioner to work out the remedy in accordance with law to seek appropriate compensation either by filing a fresh writ petition or by filing a Civil Suit. It is made clear that we have not expressed any opinion on the merits of the case.