

(2013) 06 GAU CK 0051
In the Gauhati High Court
Case No : Writ Petition (C) No. 644 of 2013

Mustt. Majeda Khatun

APPELLANT

Vs

The State of Assam and Others

RESPONDENT

Date of Decision : 14-06-2013

Acts Referred:

Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 302

Citation : (2013) 3 GLD 928 : (2013) 4 GLT 752

Hon'ble Judges : Iqbal Ahmed Ansari, J;Indira Shah, J

Bench : Division Bench

Advocate : M.K. Hussain and Mr. A.R. Rahman, for the Appellant; P.S. Deka, Addl. Senior Govt. Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Iqbal Ahmed Ansari, J.—This is an unfortunate case of killing of a convict, namely, Siddique Ali, inside the district Jail, Sadiya, by, allegedly, another convict, Sujit Gowala, lodged inside the same jail. Late Siddique Ali was the husband of the petitioner herein, namely, Mustt. Majeda Khatun. Besides the petitioner, as his widow, late Siddique Ali has left behind him his five minor children as legal representatives. With the help of this application, made, under Article 226 of the Constitution of India, the petitioner has sought for, inter alia, issuance of direction(s) to the respondents to not only pay adequate compensation to the members of the family of the said deceased and to bring to book not only the persons, who had killed her husband, but also to take appropriate disciplinary action against the officials, staff and other jail officials/ personnel of the said district Jail, whose negligence or lake of care and/or lake of devotion to duty had led to the killing of the petitioner's husband, allegedly, by a convict, namely, Sujit Gowala.

2. We have heard Mr. M.K. Hussain, learned counsel, appearing for the petitioner, and Mr. P.S. Deka, learned Addl. Senior Government Advocate, appearing for the

respondents.

3. While considering the present writ petition, it needs to be noted that the petitioner's husband, Siddique Ali, was convicted by judgment and order, dated 20.08.2003, passed, in Sessions Case No. 21/2002, by the learned Sessions Judge, Morigaon, u/s 302 IPC, and sentenced to suffer imprisonment for life. Aggrieved by his conviction, Siddique Ali preferred an appeal, which gave rise to Criminal Appeal No. 301/2006. By judgment and order, dated 14.11.2006, the appeal aforementioned was dismissed. Dissatisfied by the dismissal of his appeal, Siddique Ali carried the matter to the Supreme Court by way of Special Leave to Appeal (criminal). As the Special Leave to Appeal (criminal) was barred by limitation, an application, seeking condonation of delay, was made. By order, dated 27.08.2007, while the delay was condoned by the Supreme Court, the SLP was dismissed.

4. In course of time, petitioner's husband, while serving sentence in the district Jail, Morigaon, was shifted, in the month of December, 2012, to district Jail, Sadiya. While the petitioner's husband was serving his sentence, passed against him, at district Jail, Sadiya, he was killed on 25.11.2003. An information having been lodged, in this regard, at Sadiya Police Station, Sadiya Police Station Case No. 07/2013 was registered u/s 302 IPC. During investigation, inquest was held over the dead body of the petitioner's husband and the said dead body was also subjected to post mortem examination. On completion of investigation, a charge-sheet has been laid, in the case aforementioned, against one Sujit Gowala, who, too, had been serving his sentence in the district Jail, Sadiya.

5. According to the investigation, which had been conducted by the police, some dispute took place between petitioner's husband and the said Sujit Gowala and, on the fateful day, Sujit Gowala killed the petitioner's husband by means of a piece of fire-wood. The injuries, which the petitioner's husband sustained, resulted into his death.

6. Considering the fact that an investigation has been conducted by the police to determine the circumstances, which had led to the death of the petitioner's husband, and charge-sheet has already been filed on completion of investigation, no further direction, at this stage, in the absence of anything placed before this Court, showing to the contrary, is required to be ordered. The law has, therefore, to be allowed to take its own course in terms of the investigation, which has been conducted by the police, particularly, when there is no allegation brought before us that the investigation, which the police conducted, was unfair or tainted.

7. Nonetheless, it was the duty of the State, and it remains the duty of the State, to ensure protection of life and property of every prisoner inside a jail. It is, therefore, in the facts and attending circumstances of the present case, necessary that the Chief Secretary to the Govt. of Assam orders an inquiry to be held to determine if any of the officials of district Jail, Sadiya, or any staff/

personnel serving, at the district Jail, Sadiya, was, in any way, responsible and/or if there was any negligence, on the part of the officials of district Jail, Sadiya, and/or the staff/personnel of the said jail, including the two wardens (who were, admittedly, present inside the said jail, at the time of the alleged assault on, and killing of the petitioner's husband) in carrying out their duties.

8. Coupled with the above, the petitioner, as a widow of Siddique Ali, is entitled to receive the remuneration, which may have become due and payable to the petitioner's result as a result of his having served the sentence of imprisonment.

9. Further-more, as the petitioner's husband has died, while in custody of the State, the State is liable to pay a reasonable amount of compensation to the petitioner inasmuch as the petitioner's husband had been deprived of his life inside the said jail in violation of law.

10. Considering, therefore, the matter in its entirety and in the interest of justice, we hereby direct that Sadiya Police Station Case No. 07/2013, wherein charge-sheet has been submitted against accused Sujit Gowala, be expeditiously proceeded with and brought to logical conclusion in accordance with law. The learned Sessions Judge, Tinsukia, shall ensure that the case aforementioned is expeditiously disposed of in accordance with law.

11. We also direct that the Chief Secretary to the Govt. of Assam shall cause an enquiry to be carried out to determine if there was any negligence, on the part of any of the officials/staff/personnel of the district Jail, Sadiya, and/or if there was any lack of devotion, on the part of officials/staff/personnel of the district Jail, Sadiya, towards discharging their duties.

12. Taking into account the peculiarity of the facts of the present case and attending circumstances, we direct that a sum of Rs. 3 Lakhs be paid, as compensation, to the petitioner within a period of three months from today.

13. Send, forthwith, copies of this order to the Chief Secretary to the Govt. of Assam, Sessions Judge, Tinsukia, and Superintendent of Police, Tinsukia.

14. Furnish a copy of this order to the learned Senior Government Advocate. In terms of the above observations made and directions given, this writ petition shall stand disposed of.