

(2009) 09 CHH CK 0035
In the Chhattisgarh High Court
Case No : Writ Petition No. 2367 of 2005

Rajau	Vs	APPELLANT
State of C.G. and Others		RESPONDENT

Date of Decision : 04-09-2009

Acts Referred:

Citation : (2010) 1 CGLJ 66

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Advocate : R.M. Solapurkar, for the Appellant; M.P.S. Bhatia, Deputy Government Advocate for State for Respondents 1 and 3, for the Respondent

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.—By this petition, the Petitioner seeks a direction to the Respondents to pay a sum of Rs. 5 lacs to the Petitioner as compensation for causing damage to his right eye and further, a direction to grant Rs. 10.000/- for expenses of treatment.

2. The facts, in nutshell as projected by the Petitioner is that Rajmati Bai, who is the daughter-in-law of the Petitioner, after the death of her husband namely Shiv Charan, started living in village Navagaon alongwith her two children. One child namely Ramesh was living with his grand lather i.e. the Petitioner. One day, Rajmati Bai came and took Ramesh with her without the permission of the Petitioner. Thereafter, Rajmati approached the police outpost at Sambalpur to lodge a report. The Petitioner also reached there. The Respondent No. 2, who was the Incharge of the outpost Sambalpur, slapped the Petitioner which led to damage of right eye of the Petitioner. Thus, this petition for grant of compensation.

3. Shri Solapurkar, learned Counsel for the Petitioner submits that the right eye of the Petitioner was damaged on account of the assault given by the Respondent No. 2. Thus, the Respondents are liable to pay compensation to the Petitioner.

Shri Solapurkar further submits that the Respondent No. 2 was not examined in the enquiry conducted by the Sub Divisional Officer (Police), Bemetara.

4. Learned Counsel appearing for the Respondents 1 and 3 would submit that there was a dispute between the Petitioner and his daughter-in-law Rajmati Bai with regard to custody of Ramesh. On 4th March, 2004, the Petitioner alongwith Rajmati and Ramesh went to the police outpost for assistance. A complaint was lodged by Rajmati against the Petitioner that Rajmati may be allowed to take her son Ramesh with her. It was further complained that the Petitioner has illegally and unauthorizedly detained her son Ramesh and not permitting her to take Ramesh with her. A counselling was done and ultimately, the Petitioner agreed to send Ramesh with her mother Rajmati Bai. Thereafter on 25th April, 2004, the Petitioner filed a written report before the Station House Officer, Police Station. Nandghat stating that the Respondent No. 2 has assaulted him as a result the attire worn by him was torn off and the glass of the spectacles was broken, which had caused damage to his right eye. The Senior Superintendent of Police, Durg, by order dated 27th July, 2004 (Annexure R/4) directed the Sub Divisional Officer (Police), Bemetara [for short SDO(P)], to enquire into the complaint lodged by the Petitioner with regard to the damage of right eye of the Petitioner. The Petitioner did not mention anything in the hospital where he has undergone treatment as is evident from Annexure R/5. In the enquiry report submitted by the SDO(P), complaint of the Petitioner was found to be false and as such, no action was thereafter required. Shri Bhatia would further submit that no such incident, as alleged by the Petitioner, has taken place at the police out post as nothing has been found in the enquiry. The report was lodged by the Petitioner subsequently after a period of more than one month on 25th April, 2004 when the alleged incident had taken place on 04th March, 2004 and that too, on the advice of the local Member of Legislative Assembly.

5. I have heard learned Counsel appearing for the parties, perused the pleadings and documents appended thereto. On enquiry being conducted by the SDO(P), it has been found that the alleged incident had not taken place. Even otherwise, the Petitioner has not informed the police within the reasonable time but has taken more than a month in lodging the report. The Petitioner has further not disclosed anything before the Doctor that, his right eye was lost on account of certain incident of slapping by the Respondent No. 2, while he was under his treatment. The Petitioner, in this petition has not questioned the legality and validity of the report wherein the allegations made by the Petitioner have not been found proved by the SDO(P), Bemetara.

6. Be that as it may, it is a case for grant of compensation to the Petitioner. This Court cannot adjudicate the loss suffered by the Petitioner and determine the compensation. The petition involves complicated question of facts as the Petitioner has sought for grant of compensation and not for any other relief. This Court does not have wherewithal to determine the nature of loss as well as quantum of compensation, if any.

7. Thus, without expressing any opinion on merits of the case with regard to grant of compensation, the petition is dismissed as not maintainable. However, liberty is reserved to the Petitioner to approach the competent jurisdictional civil court for damages/compensation, if any, that may be determined after examining the evidences and documents adduced/produced by the parties before the competent court. No order as to costs.