

(2006) 03 AHC CK 0179

In the Allahabad High Court

Case No : Criminal Miscellaneous Writ Petition No. 5546 of 2000

Vidya Vachaspati Tripathi

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 24-03-2006

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 304, 392

Citation : (2006) CriLJ 2593 : (2006) 4 RCR(Criminal) 370

Hon'ble Judges : R.C. Deepak, J;G.P. Srivastava, J

Bench : Division Bench

Advocate : S.P. Singh and Sanjay Kumar Singh, for the Appellant; A.G.A., for the Respondent

Final Decision : Disposed Of

Judgement

R.C. Deepak and G.P. Srivastava, JJ.—Heard Sri S.P. Singh, learned Counsel for the petitioner, learned A.G.A. for the State and perused the records.

2. This is a petition whereby the petitioners claim compensation from the respondents on account of death of Uma Pati Tripathi, the son of petitioner Vidya Vachaspati Tripathi, Smt. Sushila, the widow and Kumari Guddi, minor daughter of the deceased in police custody.

3. The facts giving arise to this petition are as under :

4. The victim Uma Pati Tripathi was a graduate and he was employed as a teacher in Seth Kishori Lal Jalan Saraswati Shishu Mandir, Dagmapur, Mirzapur and was drawing Rs. 1500/- per month. He was also earning Rs. 2500/- per month towards private tuitions and was maintaining the petitioners / dependents. The misfortune of the petitioners began when the above-named victim was arrested on 13.2.1995 by the police near Septon Mill, Bhathua Chauraha, Mirzapur in connection with a case crime No. 109 of 1995 u/s 392 IPC registered on the instance of one Anil Narain Singh against three unknown persons relating to the robbery of Rs. 20,000/- in his house and the injuries

caused to his servant. The victim was kept in lockup. It is alleged that he was humiliated and tortured by the police therein and in consequence he suffered injuries, that regarding his arrest, Shail Tripathi, the uncle of the victim sent a telegram to the D.I.G., Varanasi Range, Varanasi and also moved an application before the Chief Judicial Magistrate concerned for getting the injuries of the victim examined. By the order of the Court, he was medically examined. The doctor found four injuries on his person and prepared the injury report accordingly, a copy of which is appended as annexure-7 to the writ petition. The injuries made the condition of the victim serious, therefore, he was shifted to District Hospital on 18.2.1995 for better treatment, but he could not be saved and died of the injuries at 7:15. The postmortem on the body of the deceased was conducted.

5. The doctor detected 13 injuries on his body and found that these injuries were responsible for his death, a copy of the postmortem examination report is appended as annexure-8 to the writ petition. Since the deceased died of the injuries, therefore, a criminal case in this regard was registered as case crime No. 125 of 1995 under Sections 304, 120B IPC at the police station Katra, Mirzapur, a copy of the first information report is appended as annexure-6 to the writ petition. The magisterial enquiry regarding such death of the deceased was conducted by the City Magistrate, who submitted his report on 27.5.1997, a copy of the enquiry report is also appended as annexure-10 to the writ petition.

6. Two submissions have been raised before the Court by the learned Counsel for the petitioner :

(1) that the deceased was tortured, humiliated and was caused severe injuries in the police custody / judicial custody and he died of the injuries. The petitioners were fully dependent upon him. There is no source of livelihood of their, therefore, an adequate compensation be granted to the petitioners;

(2) that the investigation of case crime No. 125 of 1995 be entrusted with an independent agency as there can be no fair and proper investigation into the case.

7. To consider his prayer, it is relevant to mention here that admittedly the victim Uma Pati Tripathi was arrested by the police pursuant to first information report lodged by Anil Narain Singh / respondent No. 7. He sustained injuries in the lockup and he died of the injuries. These facts are not disputed. The relevant portion of the first information report is reproduced as under :

Babu hamey Anil Narain Singh baith kar police se marwa rahain hain. Mujhe jaldi chhurwa leejaye nahin to meri jaan nahin bachegee.

8. Not only this, the magisterial enquiry also certify the facts that the deceased sustained injuries in the police custody and he died of the injuries. The relevant conclusive portion of the enquiry report is also reproduced as under :

Jaisa ki uppar sakshyon ke samyak adhyan va veevechna se pusht paya gaya hai

ki mritak bandi Umapati Tripathi ko dinank 15.2.1995 ke 2 - 1 din purv giriftaar kar katra police dwara alikhit va awaidh custody mein rakha gaya aur usey yaatnayen de gayen, phalswawop usey uprelikhit chotay aayee. Vastutah kalantar mein inhi choton ke karan usey "shock" aur "haemorrhage" hua to uskey mrityu ka karan bani. Is prakaar main vaad jaanch is nishkarsh per pahuncta hoon ki police abhiraksha mein dee gayee shareerik yaatnaon ke karan he mritak bandi Umapati Tripathi ki mrityu hui. Tadanusaar avlokanarth evam vaaste avashayak karyavaahi vanchit aakhya preyshit hai.

9. These facts go to prove that the deceased sustained injuries in police custody and died thereof. So far as the monthly income of the deceased is concerned, no documentary evidence has been produced to prove that he was working as a teacher in the aforesaid institution, but this fact has not been denied that he was not carrying tuitions and was not earning some amount. The age of the deceased at the time of his death was 25 years and the longevity of the live if is considered 60 years and the monthly income if is assessed to be Rs. 1500/- per month and if this amount is multiplied with 35 years, more than Rs. 6 lacs may appear. There is no dispute that the petitioners were not dependent of the deceased and are not his legal heirs, therefore, taking into account the entire facts and circumstances in this regard, we are of the opinion that the petitioners are entitled to receive adequate compensation from the State of Uttar Pradesh in this regard.

10. We direct that Rs. 5 lacs shall be paid as compensation to the petitioners by the Government of Uttar Pradesh through Chief Secretary, U.P., Lucknow (respondent No. 1) within a period of two months from the date of presentation of a certified copy of this order. Rs. 1 lac to petitioner Vidya Vachaspati Tripathi, Rs. 2 lacs to Smt. Sushila and Rs. 2 lacs to Km. Guddi by way of account payee cheque through District Magistrate, Mirzapur and in case the marriage of Km. Guddi has already been solemnized, she shall be paid Rs. 1 lac and remaining Rs. 1 lac shall also be paid to Smt. Sushila.

11. So far as the second submission is concerned, learned A.G.A. submits that the charge-sheet in case crime No. 125 of 1995 has already been submitted, but no copy of the charge-sheet has been brought on record. The further submission of the learned Counsel for the petitioner in this regard is that in case the investigation has not been concluded by the investigating agency, the same may be directed to expedite the same. Consequently, in case the investigation has not been concluded till today, the same shall be concluded within a reasonable period preferably within a period of three months from the date of presentation of a certified copy of this order.

12. The case be listed after the expiry of the period indicated in the order and the day the learned A.G.A. shall submit the compliance report of the payment of compensation as well as the report of investigation.

13. Let a copy of this judgment / order be furnished to the learned A.G.A. free of

cost, who shall send the same to the authority concerned for compliance.