

Jharkhand High Court

Dhanu Ram Soren Alias Bali Ram ... vs State Of Jharkhand on 4 December, 2013

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Criminal Appeal (D.B.) No.173 of 2013

Dhanu Ram Soren @ Bali Ram Soren ... .. Appellant

Versus

State of Jharkhand ... .. Respondent

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CORAM: HON'BLE MR. JUSTICE D.N. PATEL HON'BLE MR. JUSTICE P.P. BHATT

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For the Petitioner : M/s Ram Chandra Prasad Sah For the Respondents : Mr. Shashank Shekhar Prasad

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08/Dated 4th December, 2013

1. In pursuance of the order dated 29th November, 2013 in I.A. No. 2919 of 2013 preferred in this criminal appeal, the matter was adjourned for ascertaining as to whether Rs.10,000/-, as ordered by the Sessions Judge, Seraikella-Kharswan in Sessions Trial No. 128 of 2011 vide order dated 21st February, 2013, has been deposited or not and whether the victim has paid any compensation under the Victim Compensation Scheme floated by the State of Jharkhand under Section 357-A of the Code of Criminal Procedure.

2. Counsel appearing for the State submitted that today an affidavit has been filed by Jail Superintendent, Ghaghidih, Jamshedpur and it has been pointed out in the said affidavit that as the convict was assigned works from April, 2013 onwards and till November, 2013 he earned a sum of Rs. 5432/- (at the rate of Rs. 28/- per day )and 1/3 of which, i.e. 1811/- will go to the victim welfare fund as per circular regarding deduction and he will get the rest, i.e. Rs.3621/-, which has already been deposited in his account.

3. When this court raised a question whether any amount has been paid to the victim under the Victim Compensation Scheme, floated by the State of Jharkhand under Section 357-A of the Code of Criminal Procedure, the officer present before us appears to be not at all aware whether any compensation has been paid to the victim or not. We, therefore, direct the Secretary, Department of Home, Govt. of Jharkhand to file affidavit on the following aspects.

(a) How much amount the State has collected under the Victim Welfare Fund by deducting from the amount legally payable to the convicts in the jail

(b) What are the norms for defining unskilled, semi skilled and skilled workers because there are three different rates for payment for them, i.e. Rs. 14/-, Rs.28/- and Rs.46/- respectively. If any convict is working in the jail, what is the criteria to determine as to which of the aforesaid categories, the work assigned to him falls. When we raised this question, Jail Superintendent of Central Jail, Ghagidih, Jamshedpur, could not answer. This ignorance is very dangerous because it will lead to discrimination. If any convict is working in the jail, then at what rate the payment shall be made for the work being carried out by the convict depends upon the nature of work and therefore, there should be certain norms to be followed to categorize the works as aforesaid otherwise there is every chance that remuneration for the works will be decided on the whims and caprice of the Jail Superintendent or Jailor. The works and workers will be treated as unskilled, semi skilled and skilled by pick and chose method. Thus, before a Jail Superintendent or Jailor is empowered in this matter, certain norms must be set for categorisation and distribution of work, otherwise there are several persons who are undergoing sentence for the life and thus they will suffer due to the discriminatory approach of the Jail Superintendent or of the Jailor for the whole life. This is not permissible in the eye of law. Hence, we hereby, direct the Secretary, Home Department, Govt. of Jharkhand to state on affidavit as to what method of classifying the work as unskilled, semi skilled and skilled categories is to be adopted so that least will be the discretion with Jail Superintendent or the Jailor on the matter and if there already exist any norm, we request the Secretary, Home Department to bring the same in his affidavit to be filed.

(c) At present in this court we are taking up criminal appeals of the year 2003-04. Therefore, from this trend, it appears that when there is no order for suspension of sentence passed in favour of an appellant, in a criminal appeal today, his criminal appeal might be heard approximately in the year 2025 and therefore, we hereby direct the Secretary, Department of Home, Govt. of Jharkhand to state as to how the State proposes to pay the amount of compensation to the victim in the year 2025, i.e. after several years, because the victim might not be available to receive the compensation by that time. If compensation is to be paid by the end of the disposal of the criminal appeal, the victim may not be traceable. The State, which is firstly a police state and then a welfare State, must pay the compensation initially and thereafter, amount may be recovered as per the methodology developed for the purpose by deducting a part of the remuneration from the convict while at work in jail.

The fact as to whether the State has paid any compensation to the victim under the scheme floated by the State under Section 357 A of the Cr.P.C. from April, 2013 till today, must be highlighted in the affidavit to be filed. This court wants to know whether the State is only deducting the amount from the remuneration of the convict or they are also paying the victim.

Looking to Annexure C to the affidavit filed today by the Jail Superintendent, Ghagidih, it appears that a circular was issued on 6th July, 2012, which informs regarding creation of Victim Welfare Fund by deducting certain amount from the remuneration of the convict, which amounts to 1/3 of the total earning. How much amount is collected by the State from such deduction and what amount has been paid to the victim from the victim welfare fund shall be highlighted in the affidavit to be filed by the Department of Home, Govt. of Jharkhand. This affidavit shall be filed on or before the next date of hearing.

4. This matter is adjourned to be listed on 11th December, 2013.

(D.N.Patel, J.) (P.P. Bhatt, J.) s.m.