

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

WRIT PETITION (CRL.) NO.118 OF 2003

Bilkis Yakub Rasool

Petitioner(s)

Versus

State of Gujarat and Others

Respondent(s)

W I T H

CRIMINAL APPEAL NOS.727-733 OF 2019

(Arising out of S.L.P.(Crl.) Nos.10397-10403 of 2017)

O R D E R

Cr1.A. Nos.727-733/2019 [@ S.L.P.(Crl.) Nos.10397-10403/2017]

Leave granted.

By order dated 23rd October, 2017 in Writ Petition (Crl.) No.118 of 2003, this Court had directed as follows:-

"On the previous occasion, this Court had observed that two prayers remained to be adverted to namely, amount of compensation and initiation of departmental action against the police personnel, who have been convicted.

As far as the first aspect is concerned, it is submitted by Ms. Shobha, learned counsel for the petitioner, that the trial Court has granted a meagre amount of compensation though the petitioner is entitled to more. In our considered opinion, the petitioner should assail the order of granting compensation in a separate special leave petition so that this Court can advert to the same. Liberty is granted to the petitioner to file a separate special leave petition for enhancement of compensation.

As far as the second aspect is concerned, Ms. Hemantika Wahi, learned counsel for the State of Gujarat shall apprise this Court whether disciplinary action has been initiated against the police personnel or not."

Pursuant thereto, insofar as compensation aspect is concerned, S.L.P.(Crl.) Nos.10397-10403/2017 has been filed by the petitioner. We will take up the issue of compensation in the first instance.

The appellant, Bilkis Yakub Rasool, is a victim of riots which occurred in the aftermath of the Godhara train burning incident in the State of Gujarat on February 27, 2002. While eventually, the perpetrators of the crime including the police personnel stand punished, the appellant, who was aged twenty-one years and pregnant at that time, having lost all members of her family in the diabolical and brutal attacks needs to be adequately compensated. Additional facts which we must note are that the appellant

was repeatedly gangraped and was a mute and helpless witness to her three-and-a-half-year-old daughter being butchered to death. This factual position is undisputed and unchallenged in light of the findings of the trial court upheld by the High Court and this Court.

The appellant, we are informed, is presently about forty years of age and is without any home and lives with her daughter who was born after the incident. She has been coerced to live life of a nomad and as an orphan, and is barely sustaining herself on the charity of NGOs, having lost company of her family members. The gruesome and horrific acts of violence have left an indelible imprint on her mind which will continue to torment and cripple her.

We do not have to search and elaborate upon principles of law to come to the conclusion that the appellant deserves to be adequately compensated. It is only the quantum of compensation that needs to be worked out by the Court. Time and again this Court has held that the compensation so awarded must be just and fair, and the criteria objective. However, this case has to be dealt with differently as the loss and suffering evident from the facts stated above surpass normal cases. Taking into account the totality of the facts of the case, we are of the view that

compensation of Rs.50,00,000/- (Rupees fifty lakh only) to be paid by the State Government within two weeks from today, on proper identification, would meet the ends of justice. Coupled with the aforesaid relief, we deem it proper to further direct the State Government to provide the appellant with an employment under the State, if she wishes so and is inclined, and also to offer her government accommodation at a place of her choice, if she is willing to live in such accommodation.

With the aforesaid direction, the appeals relating to compensation are disposed of.

Writ Petition (Crl.) No.118 of 2003

Learned counsel for the State of Gujarat has placed before this Court consequential orders passed by the authorities of the State pursuant to the order of this Court dated 29th March, 2019. Though learned counsel has prayed for time to bring the said orders on record by means of an affidavit, we have considered it to be unnecessary as the orders issued and the factual position has been made known to us.

We are informed that the appeal of Narpatsinh Ranchhodbhai Patel, ASI against the order of dismissal has

been rejected by an order dated 10th April, 2019. Insofar as Bhikhabhai R. Patel, retired Police Sub Inspector, I.A. Saiyed, retired Police Inspector and R.M. Bhabhor, retired Dy.S.P., are concerned, orders have been passed by the disciplinary authority imposing penalty of a hundred per cent cut of the pension that they were entitled to after their retirement. Subject to such challenge as may be made by the said persons against the aforesaid orders, we do not consider it necessary to adjourn this case any further insofar as the aforesaid three retired persons are concerned as necessary orders have been passed.

We are told by the learned counsel appearing for the State of Gujarat that the State Government has recommended punishment of demotion by two stages for R.S. Bhagora, IPS. Learned counsel has further submitted that the disciplinary authority of R.S. Bhagora would act in the matter and pass an appropriate order after complying with the procedure prescribed. We, accordingly, direct the disciplinary authority of R.S. Bhagora to finalize the matter after complying with all formalities within a period of four weeks from today. Necessary and consequential orders will be passed within the aforesaid time frame of four weeks. This time frame has been fixed keeping in mind that the said officer is due to retire either on 31st May or 30th June, 2019.

With the above direction, the writ petition shall stand disposed of.

.....CJI.
[Ranjan Gogoi]

.....J.
[Deepak Gupta]

.....J.
[Sanjiv Khanna]

New Delhi
April 23, 2019.

CORRECTED

ITEM NO.4

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Criminal) No.118/2003

BILKIS YAKUB RASOOL

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

WITH S.L.P.(Crl) Nos.10397-10403/2017 (II-A)

Date : 23-04-2019 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Ms. Shobha Gupta, AOR
Ms. Ritu Bhardwaj, Adv.
Ms. Sneha Kalita, Adv.
Mr. Sourav Roy, Adv.
Mr. Joyshree Barman, Adv.

For Respondent(s) Mr. K. Radhakrishnan, Sr. Adv.
Mr. R. Balasubramanian, Sr. Adv.
Hari Priya, Adv.

Ms. Hemantika Wahi, AOR
Ms. Jesal Wahi, Adv.
Ms. Vishakha, Adv.

Mr. P. Parmeswaran, AOR

UPON hearing the counsel the Court made the following
O R D E R

W.P.(Crl.) No.118 of 2003

The writ petition is disposed of in terms of the signed order.

S.L.P.(Crl.) Nos.10397-10403 of 2017

Leave granted.

The appeals are disposed of in terms of the signed order.

Pending application(s), if any, stand disposed of.

(Chetan Kumar)
A.R. -cum-P.S.

(Anand Prakash)
Court Master

(Corrected signed order is placed on the file)

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Court Master

(Signed order is placed on the file)