

(2003) 03 JH CK 0017

Jharkhand High Court

Case No: Writ Petition (C) No. 3233 of 2002

Sametri Devi and Another

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision: March 3, 2003

Acts Referred:

- Penal Code, 1860 (IPC) - Section 302

Citation: (2003) CriLJ 2768 : (2003) 3 RCR(Criminal) 801 : (2003) 2 CurCriR 369 : (2003) 2 JCR 192 : (2003) 2 JLJR 254 : 2003 BLJ 2 34

Hon'ble Judges: M.Y. Eqbal, J

Bench: Single Bench

Advocate: Anand Prasad, for the Appellant; A.G. and Ritu Kumar, GPIV, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

M.Y. Eqbal, J.

In this writ petition the petitioners have prayed for appropriate direction upon the respondents for payment of adequate compensation on account of death of her husbands who have said to have been brutally murdered and the property and belongings were completely damaged by the members of extremists called M.C.C.

2. It is contended by the petitioners that they are the young widows of late Deo Narayan Patel and Bishnath Patel of village Banhe P.S. Bachra, District Hazaribagh and they are worst sufferers and victim of the barbarous and brutal acts of the extremists in the locality. Their husbands have been murdered in the prime of their youth leaving the petitioners and their valuable articles have been completely burnt and damaged by setting ablaze for which two criminal cases have been instituted being Case No. 41/96 and 67/96 u/s 302 and other section of the IPC Petitioners approached several times to the Deputy Commissioner, Hazaribagh and gave their

grievances in writing but till date they have been paid only Rs. 40,000/- and Rs. 30,000/- respectively by way of compensation. It is contended by the petitioner that similar type of instance was occurred in the same Police Station, whereby about five persons were killed and the Government paid Rs. 1,00,000/- each to their heirs and also provided Government Job.

3. Respondents filed their counter affidavit, in which it is stated that petitioners were paid a sum of Rs. 20,000/- each in terms of letter of the Government bearing memo No. 1701 dated 21.9.1987. It is stated in the counter affidavit that a Kuchha house with tiled roof was built partially and the story of loot and damages to the house and articles are false and fabricated. It is contended by the respondents that ex-gratia cannot be claimed as a matter of right.

4. I have heard Mr. Anand Prasad, learned counsel appearing for the petitioners and the learned G.P.IV,

5. From perusal of the counter affidavit, it appears that the respondents have not denied the fact that the petitioners' husbands have been brutally murdered by the extremists rather they have admitted that petitioners were paid Rs. 20,000/-each in terms of letter of the Government dated 21.9.1987, a copy of the letter has been annexed as Annexure-A to the counter affidavit. However, respondents have not denied the fact that in similar circumstances the heirs of other persons of the same village, who were murdered by the extremists, have been paid Rs. 1,00,000/- (Rs. One Lac). It is only stated that the heirs of those persons were paid on the special directives of the Government as communicated vide memo No. 1895 dated 23.9.1995, copy of the letter has not been attached along with the counter affidavit nor any special reason has been given for payment of Rs. 1,00,000/- (Rs. One Lac) in those cases.

6. This Court can take judicial notice of the fact that the Government has not fully succeeded in overpowering the terrorist and the extremists nor the Government has fully succeeded in giving protection and safety to the general public from the terrorists activities. In the aforementioned letter dated 21.9.1987, issued by the Government of Bihar, it has been admitted that because of the activities of the extremists several persons are killed and their properties are damaged and those persons are entitled to relief from the side of the Government.

7. As noticed above, in similar circumstances, the Government has paid Rs. 1,00,000/- (Rs. One Lac) by way of compensation to the heirs of those persons who have been brutally murdered by the extremists. In absence of any special reason/ circumstance, there is no reason that the Government will discriminate the people in the matter of payment of compensation.

8. It is the duty of the State to protect the lives of the people and if the State fails to protect the lives, liberty and property of the people, then the affected persons are entitled to get compensation from the Government.

9. In the facts and circumstances of the case, this writ application is allowed and the respondents are directed to pay a sum of Rs. 1,00,000/- (Rs. One Lac) to each of the petitioner by way of compensation.