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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.A. 728/2024 & CRL.M.(BAILS) 1343/2024

S.V.

.....Appellant

Through: Mr. Abhinav Pandey, Secretary
(Litigation) DLSA.

versus

STATE

.....Respondent

Through: Mr. Mukesh Kumar, APP with SI
Sukhcharan, PS. Nihal Vihar.
Mr. Himanshu A. Gupta, Mr. Sidharth
and Mr. Ishwar, Advocates.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

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02.09.2024

1. This hearing has been done through hybrid mode.
2. The present appeal has been filed on behalf of the Appellant under Section 415 read with 528 BNSS challenging the judgment of conviction dated 30th January, 2024 and the accompanying order of sentence dated 22nd March, 2024 in *SC No. 76/2023*, *vide* which the Appellant has been convicted for offences punishable under Sections 5/6/12 of the POCSO Act and Sections 354-A/376 IPC.
3. On the last date of hearing *i.e.*, 13th August, 2024 it was submitted by the Id. APP for the State that interim compensation has not been released in favour of the survivor and the survivor has not yet been traced.
4. Accordingly, on the said date, this Court directed that urgent steps be taken to trace the survivor and pay interim compensation to her. Relevant portion of the order dated 13th August, 2024 is extracted herein under:-



“6. Ld. APP for the State points out that in this case the interim compensation has also not been released to the survivor and the Court has expressed considerable concern on the fact that the Counsellor did not make any attempts to properly contact and trace the survivor. The relevant portion of the judgment is set out below:

“(v), This court vide orders dated 05.01.2024, 16.02.2024, 20.02.2024 and 04.03.2024 requested the learned Secretary, DLSA, West District, Tis Hazari Courts to depute a trained Counselor/Psychologist to ensure adjustment and rehabilitation of the victim and her family and to ensure that education of the victim or her siblings is not disrupted and normal life is restored at the earliest. However, as per the report received on 11.03.2024 from the DLSA, victim could not be contacted. Relevant of report reads as under:

“I tried to contact the concerned victim through telephonically on dated 22.02.2024, 24.02.2024 and 27.02.2024 respectively, despite this concerned victim neither received the call nor call back. Despite repeated calls, victim’s mother did not receive the call”

From the perusal of the above report, it appears that the Counselor has not made sincere efforts because there is nothing in the report to suggest that she visited the family.

7. A perusal of the judgment also shows that the survivor gave birth to a child whose DNA sampling was also confirmed to be matching with the Appellant. Thus the Appellant has been held to be biological father of the victim/ survivor as well as of the baby born to the survivor – who is also his biological daughter.

8. Under such circumstances, this Court is of the opinion that urgent steps need to be taken to trace the survivor and to pay the interim compensation to her. Let a status report be filed before the next date of hearing in respect of the same.

10. In addition, let the survivor be served through the concerned SHO.



11. The Secretary, DLSA shall file a report in regard to failure to pay the interim compensation to the survivor till date in this case.

12. The concerned Counsellor and the Member Secretary, DLSA shall appear before the Court on the next date of hearing.”

5. In terms of the order dated 13th August, 2024 the West District Legal Services Authority has filed a status report dated 27th August, 2024, as per which it is stated that the interim compensation was granted to the survivor by the Ld. ASJ (FTC) (POCSO)-02, West District, Tis Hazari Courts, New Delhi vide order dated 15th December, 2022 to the tune of Rs. 4,12,500/-. The final compensation has also been computed at Rs. 13,00,000/-

6. Today, the survivor and her mother have appeared before the Court. Mr. Abhinav Pandey, Secretary, Litigation of the Delhi State Legal Services Authority (DSLSA) is also present. The Court has interacted with the said parties in Chamber.

7. Mr. Abhinav Pandey, Secretary, Litigation of the DSLSA states that repeated notices were issued to the survivor through the Investigating Officer, however, there was no response from the survivor. Finally, on 16th August, 2024 a letter was written by the Secretary, DSLSA to the District Legal Services Authority (DLSA) West District requesting a Para Legal Volunteer (*hereinafter 'PLV'*) along with the staff officials to visit the residence of the survivor. Upon this step being taken, contact with the survivor was established and meetings were held with the survivor. Sessions were conducted with the counsellor, dealing officials and the PLV on 17th August, 2020, 20th August, 2024 and 24th August, 2024 respectively.

8. The West DLSA has also assisted the survivor to open a bank account



with the Union Bank of India, Nangloi branch. The final compensation of Rs.13,00,000/- as was awarded by the Id. Trial Court has been deposited in the said bank account.

9. The facts which have emerged after interaction with the parties in Chamber are that, at the time of the incident, the survivor was a student pursuing her studies in 12th grade, however, she could not complete her 12th grade exams because of the incident. In this view of the matter, she has expressed her intention to complete her Class 12th education. It is also seen after the interaction, that she needs some medical treatment and consultation.

10. The survivor lives with her mother and other two sisters and brother in Nangloi in a tenanted accommodation. The mother works in a school and is earning approximately Rs.5,000/- to Rs.6,000/- per month. The mother and the daughter have expressed that if some amounts may be released to them, it would help in her pursuing her studies as also in getting some treatment.

11. Under such circumstances, after interaction with them in Chamber, the following directions are issued:-

i) Out of the total amount of interim compensation *i.e.*, Rs. 13,00,000, the Union Bank of India, Nangloi shall retain a sum of Rs.5,00,000/- in a fixed deposit in the name of the survivor for a period of two years.

ii) A further sum of Rs. 5,00,000/- shall be retained in a fixed deposit by the Union Bank of India, Nangloi for a period of one year in the name of the survivor.

12. The remaining amount of Rs.3,00,000/- shall be disbursed in the following manner:-

a) A sum of Rs.1,00,000/- shall be released to the survivor within



one week from today.

b) Thereafter, a sum of Rs.10,000/- be released to the survivor by 10th of every month w.e.f. November 2024.

13. The mother of the survivor has assured this Court that she would ensure that the aforesaid amounts are used for the well-being of the daughter.

14. The PLV/DSLSEA, who has already been nominated by the DSLSEA, shall continue to help the survivor and assist her in filling up her admission form for the Class 12th examinations through the National Institute of Open Schooling ('*NIOS*'). If the DSLSEA is of the opinion that any order is required to be passed by this Court, an application may be moved or the matter may be mentioned.

15. The DSLSEA shall also assist the survivor in getting her medically examined in a hospital and also, getting the test conducted such as ultrasound *etc.*, which may be required. If any medicines are to be procured and given to her, she may be assisted in the same.

16. Let the paper book be prepared and tagged along with the present appeal. Copies of the same may be provided to the *Id.* Counsels for the parties by the Registry, upon request.

17. Mr. Abhinav Pandey, Secretary DSLSEA shall also place on record a chart giving the details of the number of cases in which interim and final compensation has been awarded by the Courts and the survivor(s) are not traceable and the same has not been disbursed on this ground. Let such a chart be placed by the next date of hearing.

18. ***Ms. Harpreet Kalsi, Id. Counsel (M: 9958944855)***, who is present in Court, is appointed as *Id. Amicus Curiae* to assist the survivor in the present case. The survivor and her mother's phone numbers have been given to the



Ld. Amicus.

19. List on 23rd October, 2024. A detailed report be filed by the DSLSA setting out all the compliances undertaken in terms of this order.

PRATHIBA M. SINGH, J

AMIT SHARMA, J

SEPTEMBER 2, 2024
MR/RKS/SC