

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1585/2018

(Arising out of SLP(Cr1) No.6488/2016)

AMOL VITTHALRAO KADU

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s))

JUDGMENT

Uday Umesh Lalit, J.

Leave granted.

Criminal Writ Petition No.39/2015 was preferred by parents and daughter of one Pravin alleging that said Pravin met with unnatural death while he was in police lock-up, Vajirabad Police Station, Nanded.

After considering the relevant documents, the High Court directed the State to make over a sum of Rs.7 lakhs by way of compensation to the writ petitioners. The compensation has been made over by the State to the writ petitioners. The High Court also directed that said amount be recovered from the Investigating Officer-In-charge as under:

"6. The amount ordered shall be recovered from the Investigating Officer/in-charge at the relevant time in Crime No.104 of 2013, Vimantal Police Station, Nanded. The State

shall also pay costs of this petition to the petitioners."

The Investigating Officer-In-Charge has appealed against the aforementioned direction contending, inter alia that unless and until the liability or responsibility is fixed, the appellant ought not to have been directed to make over the payment.

The law on the point has been summarized by this Court in *D.K. Basu vs. State of West Bengal*¹:-

"54. Thus, to sum up, it is now a well-accepted proposition in most of the jurisdictions, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the *established* infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts. The claim of the citizen is based on the principle of strict liability to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to be indemnified by the wrongdoer. In the assessment of compensation, the emphasis has to be on the compensatory and not on punitive element. The objective is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offence (irrespective of compensation) must be left to the criminal courts in which the offender is prosecuted, which the State, in law, is duty bound to do. The award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same matter for the tortious act

committed by the functionaries of the State. The quantum of compensation will, of course, depend upon the peculiar facts of each case and no strait-jacket formula can be evolved in that behalf. The relief to redress the wrong for the *established* invasion of the fundamental rights of the citizen, under the public law jurisdiction is, thus, in addition to the traditional remedies and not in derogation of them. The amount of compensation as awarded by the Court and paid by the State to redress the wrong done, may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit."

In a case² dealing with default on part of the officials in depositing the amount in terms of the Land Acquisition Act, Swatanter Kumar, J. had observed:

"(iv) In this case, the claimants would be entitled to the costs of Rs 1,00,000 (Rupees one lakh only) which shall be deposited at the first instance by the State Government of Uttar Pradesh and then would be recovered from the salaries of the defaulting/erring officers/officials in accordance with law. The inquiry shall be completed within a period of six months from today and a report shall be submitted to the Secretary General of this Court on the administrative side immediately thereafter."

Learned counsel for the State accepts that in connection with the death of the said Pravin, proceedings are pending in which the question of liability will be gone into and determined.

We therefore modify the aforesaid direction of the High Court and state that as and when the liability for the crime in question is fastened, the State shall be at liberty to

recover the amount of compensation from the concerned erring officials.

The appeal is disposed of in the aforesaid terms.

Pending applications, if any, also stand disposed of.

..... J.
[UDAY UMESH LALIT]

..... J.
[R. SUBHASH REDDY]

New Delhi,
December 10, 2018.

ITEM NO.43

COURT NO.9

SECTION II-A

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

Petition(s) for Special Leave to Appeal (CrI.) No(s). 6488/2016

(Arising out of impugned final judgment and order dated 04-07-2016 in CRLWP No. 39/2015 passed by the High Court Of Judicature At Bombay At Aurangabad)

AMOL VITTHALRAO KADU

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s))

Date : 10-12-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE R. SUBHASH REDDY

For Petitioner(s) Mr. Subodh S. Patil, AOR
Mr. Lokesh K. Choudhary, Adv.
Mr. Debashish Mukherjee, Adv.

For Respondent(s) Mr. Nishant Ramakantrao Katneshwarkar, AOR
Ms. Suvarna Ganu, Adv.
Mr. Anoop Kandari, Adv.

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

Leave granted.

The appeal is disposed of in terms of the signed order.

Pending applications, if any, also stand disposed of.

(INDU MARWAH)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER

(Signed order is placed on the file)