



2026:KER:57013
CNR : KLHC010541212023

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

TUESDAY, THE 28TH DAY OF JULY 2026 / 6TH SRAVANA, 1948

CRL.MC NO. 6038 OF 2023

CRIME NO.192/2014 OF Chittarikal Police Station, Kasargod

AGAINST THE ORDER/JUDGMENT DATED 12.07.2023 IN CMP
NO.2135 OF 2023 OF DISTRICT & SESSIONS COURT, KASARAGOD

PETITIONERS/VICTIMS:

1

2

3

4

BY ADVS.
SMT.IPSITA OJAL
SHRI.ANIL KUMAR K.P.
SMT.MARIYAMMA A.K



2026:KER:57013
CNR : KLHC010541212023

:2:

RESPONDENT/STATE:

1 STATION HOUSE OFFICER
 CHITTARIKKAL POLICE STATION, KASARAGOD,
 PIN - 671326

2 STATE OF KERALA
 REPRESENTED BY PUBLIC PROSECUTOR,
 HIGH COURT OF KERALA, PIN - 682031

SRI. NAVAS V. A., SR. PP

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
28.07.2026, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



:3:

“C.R.”

ORDER

This petition has been filed by the victims in S.C. No. 649 of 2014 on the file of the Sessions Court, Kasaragod, arising out of an acid attack case in which the sole accused was charge-sheeted for offences punishable under Sections 307 and 326A of the Indian Penal Code. Upon conclusion of the trial, the learned Sessions Judge, by judgment dated 29.01.2015, convicted the accused for the offence punishable under Section 326A of the IPC and acquitted him of the charge under Section 307 of the IPC.

2. For the offence punishable under Section 326A of the IPC, the accused was sentenced to undergo rigorous imprisonment for a period of twelve years and to pay a fine of Rs.40,000/-. In default of payment of the fine, he was directed to undergo rigorous imprisonment for a period of two years. Out of the fine amount, if paid or realised, a sum of Rs.25,000/- was directed to be paid to PW1 and a sum of Rs.5,000/- each to PWs 2 to 4, who are the injured victims in the case, as compensation under Section 357(1)(b) of the Code of Criminal Procedure.

3. The grievance raised by the petitioners is that, notwithstanding the fact that they are the victims of a brutal acid attack, the learned Sessions Judge failed to make a recommendation to award compensation under



:4:

Section 357A of the Code of Criminal Procedure. According to the petitioners, the compensation awarded under Section 357(1)(b) of the Code is grossly inadequate, having regard to the nature of the injuries sustained by them and the long-term physical, psychological and financial consequences of the acid attack.

4. Aggrieved by the omission to consider compensation under Section 357A of the Code, the petitioners approached the Sessions Court, Kasaragod, by filing C.M.P. No. 2135 of 2023 seeking a recommendation under Section 357A of the Code to the District Legal Services Authority which would enable them to receive compensation under the Kerala Victim Compensation Scheme. The learned Sessions Judge, however, dismissed the said petition holding that, since an appeal against the judgment was already pending before this Court, it would not be proper for the trial court to pass any order which might amount to filling up a lacuna in the judgment already pronounced. It is in the above circumstances that the present petition has been filed seeking a recommendation from this Court to the District Legal Services Authority for grant of compensation under the Kerala Victim Compensation Scheme.

5. I heard Smt. Ipsita Ojal, the learned counsel appearing for the petitioners as well as Sri. Navas V. A., the learned Senior Public Prosecutor.



:5:

The records were also perused.

6. The learned Senior Public Prosecutor, on instructions, submitted that the accused has already preferred Criminal Appeal No. 192 of 2015 before this Court challenging the judgment of conviction and the order of sentence passed by the trial court, and that the said appeal is still pending consideration. It was therefore submitted that the issue raised in the present petition could be more effectively and appropriately considered by the Bench hearing the said criminal appeal.

7. While considering the present petition, it cannot be overlooked that in an acid attack case of this nature, the criminal court is under a statutory obligation to consider the question of awarding adequate compensation to the victims. Victim compensation is intended to alleviate the suffering endured by victims of serious offences.

8. The Hon'ble Supreme Court in **Ankush Shivaji Gaikwad v. State of Maharashtra** [2013 KHC 4371] has categorically held that it is the mandatory duty of the criminal court to apply its mind to the question of awarding compensation in every criminal case. The Court further held that the power conferred under Section 357 of the Code is intended to reassure the victim that he or she is not forgotten in the criminal justice system, and



that the very object of the provision would be defeated if the court fails to advert to the question of compensation. It would be worthwhile to extract paragraphs 26, 27 and 50 of the said judgment.

"26. More than four decades back Krishna Iyer J., speaking for the Court in Maru Ram and Others v. Union of India and Others, 1981 KHC 491 : 1981 (1) SCC 107 : 1981 SCC (Cri) 112 : AIR 1980 SC 2147 : 1981 (1) SCR 1196, in his inimitable style said that while social responsibility of the criminal to restore the loss or heal the injury is a part of the punitive exercise, the length of the prison term is no reparation to the crippled or bereaved but is futility compounded with cruelty. Victimology must find fulfilment said the Court, not through barbarity but by compulsory recoupment by the wrong doer of the damage inflicted not by giving more pain to the offender but by lessening the loss of the forlorn. In Hari Singh v. Sukhbir Singh and Others, 1988 KHC 717 : 1988 (4) SCC 551 : 1988 (2) KLT SN 80 : 1988 SCC (Cri) 984 : AIR 1988 SC 2127, this Court lamented the failure of the Courts in awarding compensation to the victims in terms of S.357 (1) of the CrPC. The Court recommended to all Courts to exercise the power available under S.357 of the CrPC liberally so as to meet the ends of justice. The Court said:

".... Sub-section (1) of S.357 provides power to award compensation to victims of the offence out of the sentence of fine imposed on accused... It is an important provision but Courts have seldom invoked it. Perhaps due to ignorance of the object of it. It empowers the Court to award compensation to victims while passing judgment of conviction. In addition to conviction, the Court may order the accused to pay some amount by way of compensation to victim who has suffered by the action of accused. It may be noted that this power of Courts to award compensation is not ancillary to other sentences but it is in addition thereto. This power was intended to do something to reassure the victim that he or she is not forgotten in the criminal justice system. It is a measure of responding appropriately to crime as well of reconciling the victim with the offender. It is, to some extent, a constructive approach to crimes. It is indeed a step forward in our criminal justice system. We, therefore, recommend to all Courts to exercise this power liberally so as to meet the ends of justice in a better way." (emphasis supplied)

27. The amount of compensation, observed this Court, was to be determined by the Courts depending upon the facts and circumstances of each case, the nature of the crime, the justness of the claim and the capacity of the accused to pay.

xxxx xxxx xxxx



50. Applying the tests which emerge from the above cases to S.357, it appears to us that the provision confers a power coupled with a duty on the Courts to apply its mind to the question of awarding compensation in every criminal case. We say so because in the background and context in which it was introduced, the power to award compensation was intended to reassure the victim that he or she is not forgotten in the criminal justice system. The victim would remain forgotten in the criminal justice system if despite Legislature having gone so far as to enact specific provisions relating to victim compensation, Courts choose to ignore the provisions altogether and do not even apply their mind to the question of compensation. It follows that unless S.357 is read to confer an obligation on Courts to apply their mind to the question of compensation, it would defeat the very object behind the introduction of the provision."

9. Likewise, a Division Bench of this Court in ***Xxxx v. State of Kerala*** [2025 KHC 1032] has held that in cases involving acid attacks, it is the mandatory duty of the court to ensure that the victims are adequately compensated. The Division Bench observed that, in such cases, the courts are under an obligation to apply their mind to the question of compensation and pass appropriate orders so as to secure adequate compensation to the victims. It was further held that the expression "may" used in sub-section (3) of Section 357A of the Code has to be construed as mandatory, having regard to the object and purpose of the provision.

10. The object underlying Section 357A of the Code, which provides for a victim compensation scheme, is to ensure that victims who have suffered loss or injury as a result of the offence receive adequate rehabilitation, particularly in cases where the compensation awarded under Section 357 is inadequate or where the offender is unable to pay. The



:8:

provision casts a corresponding duty upon the criminal courts to consider whether a recommendation to the District Legal Services Authority is required for award of compensation under the Victim Compensation Scheme. This obligation assumes greater significance in cases involving acid attacks, where the victims often require prolonged medical treatment, psychological counselling, rehabilitation, and financial assistance.

11. In the present case also, PWs 1 to 4 sustained serious injuries in an acid attack. Though the trial court found the accused guilty and convicted him for the offence punishable under Section 326A of the IPC, it omitted to make a recommendation to the District Legal Services Authority concerned for determination of the quantum of compensation payable to the victims under the Victim Compensation Scheme contemplated under Section 357A of the Code.

12. It is true that, apart from the substantive sentence of imprisonment, the accused was directed to pay a fine of Rs.40,000/- and that, if paid or realised, the said amount was directed to be disbursed among the victims. However, the amount so awarded is manifestly inadequate to compensate the victims for the pain, suffering, permanent disfigurement, trauma, medical expenses, and the other lifelong consequences flowing from the acid attack.



13. It is equally pertinent to note that there is no certainty that the fine amount imposed upon the accused would be realised. Consequently, the compensation payable to the victims cannot be made dependent upon the recovery of the fine amount. The compensation envisaged under Section 357A of the Code is independent of, and in addition to, the compensation that may be awarded under Section 357 of the Code. The entitlement of the victims to compensation under the Victim Compensation Scheme cannot, therefore, be curtailed merely because a fine has been imposed upon the accused.

14. This Court is cognizant of the fact that no amount of money can truly compensate the physical agony, permanent disfigurement and emotional trauma suffered by victims of an acid attack. Nevertheless, the award of reasonable compensation would be a great solace to them. The power to recommend compensation under Section 357A is a power coupled with a duty, and every criminal court is expected to consciously examine the question of victim compensation while rendering judgment, particularly in cases involving acid attacks. Failure to do so constitutes a serious omission.

15. I am not unmindful of the fact that the accused has preferred Criminal Appeal No. 192 of 2015 challenging the judgment of conviction



:10:

and that the said appeal is pending consideration before another Bench of this Court. Significantly, the appeal has remained pending since the year 2015. In the peculiar facts and circumstances of the present case, the mere pendency of the appeal cannot be a ground to decline the relief sought in this petition.

16. The inherent jurisdiction of this Court under Section 482 of the Code is intended to secure the ends of justice and to prevent abuse of the process of the court. Where a statutory obligation has been omitted to be discharged, and such omission has the effect of depriving victims of the benefits of the Victim Compensation Scheme, this Court would be justified in exercising its inherent jurisdiction to remedy the omission. Having regard to the facts of the present case and the precarious circumstances in which the victims are placed, I am of the view that granting the relief sought will not offend judicial propriety or judicial discipline.

In the result, this Criminal M.C. is allowed. The District Legal Services Authority, Kasaragod is directed to conduct an enquiry and determine the quantum of compensation payable to PWs 1 to 4 under Section 357A of the Cr.P.C., as expeditiously as possible, preferably within a period of two months from the date of this order. Upon such determination, the District Legal Services Authority shall take all necessary



:11:

2026:KER:57013
CNR : KLHC010541212023

steps to ensure that the compensation so awarded is disbursed to the victims without unnecessary delay.

Sd/-
JOBIN SEBASTIAN
JUDGE

ANS



APPENDIX OF CRL.MC NO. 6038 OF 2023

PETITIONER ANNEXURES

- | | |
|-------------|---|
| Annexure 1 | FIR OF CHITTARIKKAL POLICE STATION IN CRIME NUMBER 192/2014 |
| Annexure 2 | DISCHARGE CARD NUMBERED 125856/14 ISSUED TO THE FIRST PETITIONER BY PARIYARAM MEDICAL COLLEGE, KANNUR |
| Annexure 3 | DISCHARGE CARD NUMBERED 14042940 ISSUED TO THE SECOND PETITIONER BY THE PARIYARAM MEDICAL COLLEGE |
| Annexure 4 | DISCHARGE CARD NUMBERED 14042937 AND MEDICAL DOCUMENTS ISSUED TO THE THIRD PETITIONER BY PARIYARAM MEDICAL COLLEGE HOSPITAL |
| Annexure 5 | PHOTOGRAPH OF THE MINOR THIRD PETITIONER |
| Annexure 6 | DISCHARGE CARD NUMBERED 14042938 ISSUED TO THE FOURTH PETITIONER BY THE PARIYARAM MEDICAL COLLEGE HOSPITAL, KANNUR |
| Annexure 7 | PHOTOGRAPH OF THE FOURTH PETITIONER |
| Annexure 8 | THE JUDGEMENT IN SC 649/2014 OF THE SESSIONS COURT KASARAGOD, DATED 29-01-2015. |
| Annexure 9 | ORDER OF DLSA, KASARAGOD IN VC.18/2023, VC19/2023 AND VC20/2023, DATED 10-4-2023. |
| Annexure 10 | JUDGEMENT OF CMP.NO 2135/ 2023 OF SESSIONS COURT KASARAGOD DATED 12-7-2023 |