

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

WRIT PETITION(CRIL) NO. 26 OF 2009

Smt. Mutum Ongbi Roni Devi, aged about
25 years, w/o late Mutum Herojit Singh,
a resident of Keishampat Mutum Leirak
PO & PS Imphal, Imphal West District,
Manipur.

..Petitioner.

Versus

1. The State of Manipur through the
Principal Secretary(Home) to the
Govt. of Manipur, PO & PS Imphal
West District, Manipur.
2. The Director General of Police,
Manipur, PO & PS Imphal, Imphal
West District, Manipur.
3. The Superintendent of Police,
Imphal East District, PO & PS
Porompat, Imphal Manipur.

...Respondents.

WRIT PETITION(CRIL) NO. 27 OF 2009

Smt. Mutum Ongbi Ibecha Devi, aged about
22 years, w/o late Mutum Rajen Singh,
a resident of Keishampat Mutum Leirak
PO & PS Imphal, Imphal West District,
Manipur.

..Petitioner.

Versus

1. The State of Manipur through the
Principal Secretary(Home) to the
Govt. of Manipur, PO & PS Imphal
West District, Manipur.
2. The Director General of Police,
Manipur, PO & PS Imphal, Imphal
West District, Manipur.
3. The Superintendent of Police,
Imphal East District, PO & PS
Porompat, Imphal Manipur.

...Respondents.

BEFORE
HON'BLE THE CHIEF JUSTICE L.K.MOHAPATRA
HON'BLE MR.JUSTICE N.KOTISWAR SINGH

For the Petitioners :: Mr. M. Rakesh, Advocate
For the Respondents :: Mr. RS Reisang, Sr. G.A.
Date of hearing :: 04.9.2014.
Date of judgment &
Order :: **09.09.2014**

JUDGMENT & ORDER

CJ

These two writ petitions have been filed for payment of compensation on allegation that late Mutum Herojit Singh and late Mutum Rajen Singh were killed in a fake encounter. The petitioner in W.P(Cril) No.26 of 2009 is the widow of late Mutum Herojit Singh and the petitioner in W.P(Cril) No.27 of 2009 is the widow of late Mutum Rajen Singh. Since both the deceased persons were killed in the same incident, on the request of the learned counsel for the parties, they were taken up together for hearing and are disposed of in this common judgment and order.

[2] The brief facts of the case are that late Mutum Herojit Singh and late Mutum Rajen Singh are cousin brother. Late Herojit Singh was the sole earning member of his family consisting of his wife (the petitioner) and minor son. He was plying a Tata Sumo Vehicle from Imphal to Moreh by employing a driver and was also serving in Bariel Engineers Private Limited and his monthly income from all source was about 12,000/- rupees per month. On 14.10.2008 at about 2:20 PM late Herojit Singh informed his wife (petitioner) that he would go to buy a Rice Cooker, Blanket and some shirts and trousers for his use in Shillong and left home with a cash of Rs.20,000/- and a Mobile Handset in a Kinetic Honda two wheeler bearing No.MN 1H- 0588 and on the way the other deceased Mutum Rajen, his cousin brother, also accompanied him. They were in a Video Editing Studio at Chingmeirong Khongnang Ani Karak till 5 PM. As they did not return till late in the evening, the petitioner tried to contact her husband, Herojit Singh, over

mobile phone, but the phone was in switched off mode. On 14.10.2008 at about 9PM the dead body of late Herojit Singh and Rajen Singh were shown in the bulletin of ISTV and it was said that they had been killed in an encounter at Lambui Lambi, Imphal East District by the Manipur Police Commandos and that their dead bodies have been kept in the mortuary of RIMS, Lamphelpat. On the next day morning family members of the petitioner went to the mortuary and identified the dead bodies. The Doctor, who conducted the Post Mortem examination over the dead bodies of late Herojit Singh, opined that death was due to injuries to the lungs and liver resulting from multiple firearm injuries. Father of late Mutum Herojit also heard from reliable source that both the deceased persons were picked up from the road near LMS Law College by the personnel of Manipur Police Commando and were brought to Lambui Road, Imphal East District and have been killed in a fake encounter. On these allegations, a prayer is made in the writ petition for payment of compensation.

[3] The stand of the respondents is that on 14.10.2008 at about 6:30 P.M. when the police party was on patrolling duty and was proceeding along inter-village road known as Lambui Lambel they were fired upon by 5/6 unknown armed youths near the local club and these unknown armed youths were using two wheeler and were moving towards southern side. Thereafter, police personnel pursued them and live encounter ensued. While the armed youths were speeding away in their two wheeler by firing continuously, one of it a Kinetic Honda, fell down on the road along with the two youths riding the said Kinetic Honda. Again there was exchange of fire between the two youths and the Commando team and both the youths died due to gun shot injuries. After the encounter, search was conducted around the spot and one 7.62 pistol (M 20 pistol) loaded with 4 live rounds in the magazine was found near one of the dead bodies. Another 9 mm Revolver was also found with live rounds in the magazine

from near the other dead body. After the incident, an FIR was lodged in the Porompat P.S. in relation to the said incident.

[4] On consideration of the claim of the petitioners and the stand taken by the respondents, Court directed the learned District Judge, Manipur East to conduct an enquiry and submit a report. In compliance of the said order, the learned District Judge, Manipur East submitted the report on 8.6.2012. On consideration of the evidence placed in course of the enquiry the learned District Judge came to the conclusion that both the deceased persons were killed by the Manipur Police Commandoes in fake encounter at Lambui Lambi and there was no exchange of fire or encounter in between the two deceased persons and the police commandoes. Paragraph 25 of the report of the learned District Judge, Manipur East is quoted below:

“25. In the result of the foregoing observations, I find the testimonies of P.Ws. are more convincing and trustworthy than that of the R.Ws.

Therefore, I have decided that the husband of the petitioner, namely Mutum Herojit Singh was killed by the personnel of Manipur Police Commandoes, Imphal East Unit on 14.10.2009 at about 6:30 p.m. after having in their custody in a fake encounter at Lambui Lambi, Porompat, Imphal East District. I have also decided that there was no exchange of firing or encounter with the Manipur Police Commandoes, Imphal East Unit and unknown armed youths on 14.10.2008 at Lambui Lambi, Porompat, Imphal East District.”

[5] The respondents have not filed any objection to the said report. However, it was contended by Mr. RS Reisang, learned Sr. G.A. appearing for the respondent State that the stand taken by the respondents should have been believed by the learned District Judge considering the fact that arms and ammunitions were found near the dead bodies of both the deceased persons immediately after the encounter and therefore the learned District Judge could not have come to the conclusion that there was no firing between the two deceased persons and the Manipur Police Commando.

[6] Mr. M. Rakesh, learned counsel appearing for petitioners in both the cases placed reliance on the above report of the learned District Judge and submitted that both the deceased

persons having been killed in a fake encounter, the petitioners are entitled to compensation.

[7] We have carefully perused the report of the learned District Judge. From the report, it appears that the learned District Judge had framed two issues, such as whether late M. Herojit Singh, husband of the petitioner in WP(Cril) 26 of 2009 was killed in a fake encounter after being arrested by the personnel of Manipur Police Commandoes at Lambui Lambi on 14.10.2008 and as to whether the said deceased Herojit Singh was killed in an encounter with the police personnel. It appears that from the side of the petitioner, 5 witnesses were examined and several documents were produced. From the side of the respondents also, 5 witnesses were examined and some documents were produced. The witnesses examined on behalf of the petitioners narrated the incident to the extent that on the date of incident both the deceased persons were on a Kinatic Honda two wheeler and were not armed. Though evidence from the side of the respondents was that both the deceased persons had fired upon the police personnel, the learned District Judge did not believe the said stand taken by the respondents with cogent reasons. From the post mortem report also, we find that both the deceased persons had received several bullet injuries which ultimately caused their death. On analysis of the evidence adduced on behalf of the respondents, we also find that the story put forward by them is not believable. In both the deceased persons were firing from their pistols while moving in Kinatic Honda two wheeler, from near their dead bodies live rounds could not be found in the Revolver specially in absence of empty ammunition cases. We, therefore, find no reason to discard the report submitted by the learned District Judge.

[8] Having accepted the report of the learned District Judge, the next question that comes up for consideration is what should be the quantum of compensation. Though the petitioners have not prayed for any particular amount to be paid as compensation, considering their age, the income of one of the

deceased persons and the number of years that have passed in the meantime, we are of the view that compensation of Rs.5 lakhs to each of the petitioners would be just and proper. We, accordingly, allow both the writ petitions and direct the respondents to pay compensation of Rs. 5 lakhs to each of the petitioners within four months from the date of communication of this judgment and order.

If the petitioners are not satisfied with the compensation granted, they can approach competent civil court and establish a case for higher compensation.

JUDGE

CHIEF JUSTICE

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