

Raghubir Singh

Vs

State of Haryana

Criminal Appeal No. 124 of 1973

(V. R. Krishna Iyer, R. S. Sarkaria JJ)

12.02.1974

JUDGMENT

KRISHNA IYER, J. -

1. A young woman was vomitted into death by a young man by giving her a cup of milk mixed with a lethal dose of stricnine. He, along with two others, bundled the cadaver into a Delhi-bound train but the coach cleaner discovered it, the police unearthed the crime, the Court convicted the culprits awarding capital sentence to the killer and lighter punishments to the two accessories after the fact, under Section 201, I.P.C. Special leave has been granted to the only appellant on the sole ground of sentence and so our scrutiny is confined to the circumstances of the crime and criminal and the penological propriety of inflicting the higher or lesser punishment.

2. Twenty-six years old Raghubir Singh - the appellant - was a lesser official in the Malaria Eradication Department in Gorir, a village in Rajasthan. He became friends with a veterinary official, Sri Sharma, P.W. 13, and by a concatenation of innocent circumstances the appellant came into carnal comity with Kailashwati, the 2nd accused, a midwife, in a local hospital. Later, the appellant was transferred to a village Mandhapia in the Family Planning Department where he came across Sushma Thomas, a nurse in the same department. Prurient Raghubir picked up a liaison with this malayalee belle older to him by five years and - going by the medical evidence, not a virgin. She seems to have feigned pregnancy probably to force a matrimony for which Raghubir was reluctant. After many twists and turns of events, on June 6, 1971, the appellant secured half a grain of stricnine hydrochloride from Sharma, the friend, on the pretext that it was needed for killing stray dogs. This Sharma's naivete in supplying poison looks suspicious and it is for Government to look into, remembering that he was more than a dispensing chemist in this case. Anyway, the amorous pair spent the night of the 10th June at the quarters of the 2nd accused, and the appellant brought milk for the deceased who consumed the cup of death. After agonising hours of vomitting struggle, she breathed her last, was wrapped in a blanket and given a railway burial.

3. The criminal act was treacherous murder and deserved the sterner sentence. But a few ameliorative features fall to be noticed since judicial temper has more components than indignation against murder. The convict is in his twenties, not irrelevant in considering death sentence. He is said to be a married man. He was promiscuous with women, a solacious sin for which the deceased was a contributory. The latter's pressure to get him to marry her must have planted the seed of murderous thought in him. He bargained for romance, encouraged by the victim but the pregnancy - though pretended - in a society which views unmarried mothers as vicious upset the appellant. These have no bearing on guilt at all but attenuate the lethal touch of the sentence. Some planning and treachery have aggravated the crime, which also must not be overlooked. Yet another

circumstance. The man was sentenced to death as early as May 23, 1972, and for twenty months the spectre of death penalty must have tormented his soul. Taken separately, none of these may suffice to commute but the conspectus of factors, personal and social, tilt the scales in favour of a life term. We have in another case discussed at some length how modern penology leans less towards death penalty and the winds of criminological change blow over Indian statutory thought. While murder in its aggravated form and in the absence of extenuating factors connected with crime, criminal or legal process, still is condignly visited with death penalty, a compassionate alternative of life imprisonment in all other circumstances is gaining judicial ground. Taking an over-all view of forensic clemency we modify the death sentence and direct the appellant to suffer imprisonment for life.

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