

Ambaram

Vs

The State of Madhya Pradesh

Criminal Appeal No. 15 of 1975

(R.S. Sarkaria, N.L. Untwalia JJ)

08.03.1976

JUDGMENT

SARKARIA, J. -

Ambaram was tried and convicted for murder of one Kachru by the Session Judge and sentence of death. The High Court of Madhya Pradesh has confirmed the sentence of death. His appeal limited to the question of sentence, by special leave, is now before us. The appellant was tried along with four other persons for the double murder of Kachru and Parwat. It is said it was the appellant who shot dead Kachru, while his companions assaulted Parwat to death with sharp-edged weapons and a lathi. The trial Court recorded convictions of the appellant after the Code of Criminal Procedure, 1973 had come into force. The learned Judges of the High Court do not appear to have adverted at all to the changes brought about in the matter of awarding a death sentence by Section 354(3) of the new Code. Sub-section (5) of Section 367 of the Code of Criminal Procedure, 1898, as it stood before the Amending Act 26 of 1955, enjoined upon the court convicting a person of a capital offence to give reasons why imprisonment for life, instead of a death sentence was being awarded. That is to say, at that time the normal sentence to be awarded to a person found guilty of murder was death, and imprisonment for life an exception. The Amending Act 26 of 1955 deleted sub-section (5) of Section 367. The result was that the court was left with a discretion to inflict the death sentence or the sentence of life imprisonment each according to the circumstances and exigencies of each case. In keeping with the current penological thought, now the Code of 1973, which came into force on April 1, 1974, makes imprisonment for life a rule, and death sentence an exception in the matter of awarding punishment for murder. Now, if a death sentence is to be awarded to a person found guilty of murder, the court awarding it has to justify it by giving special reasons. The implications of this change in law wrought by the Code of 1973, were explained by this Court in *Balwant Singh v. State of Punjab* ((1976) 1 SSC 425 : 1976 SCC (Cri) 43). The High Court has not given any special reasons why Ambaram has been singled out for the award of the extreme penalty. Nor do we find any such reason to treat him differently in the matter of sentence from his companions who have been awarded the lesser penalty. On this short ground we allow this appeal and commute Ambaram's death sentence to that of imprisonment for life.

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