

Javed Ahmed Abdulhamid Pawala

Vs

State of Maharashtra

Criminal Appeal No. 502 of 1982

(D. A. Desai, O. Chinnappa Reddy JJ)

20.04.1983

JUDGMENT

CHINNAPPA REDDY, J.-

This appeal was admitted on the question of sentence only. Having considered the circumstances of the case and despite out reluctance to impose the sentence of death except in the 'rarest of rare' cases, we are unable to perceive any ground for substituting the sentence of life imprisonment for death in the present case. The appellant has been convicted of multiple murders. He killed his sister-in-law Shahinbi, aged about 23 years, his little niece Sanayya, aged about 3 years, his baby-nephew Shahabaj, aged 1 1/2 years and a child-servant, Jaitun, aged about 7 or 8 years. The motive for the murder was gain. He wanted the ear-tops and the bangles worn by his sister-in-law. It appears he had earlier approached his brother Asmat (Shahinbi's husband and father of Sanayya and Shahabaj) to give him a sum of Rs. 5,000 in order that he may start some business. When his brother expressed his inability to give him any money as he had none, he suggested that his sister-in-law's ornaments could be sold. Shahinbi was, however, not willing to part with her ornaments. On the night of occurrence, when his brother was away from the house for a few hours, the appellant killed his sister-in-law, her two children and the girl-servant and committed robbery of the ear-tops and the bangles. On the person of Shahinbi, there were 20 stab wounds resulting in punctures of the pleura and both the lungs. Both her ear-lobes were torn. In addition to the 20 stab wounds, there were also seven wounds caused by hard and blunt object. There were 10 wounds on the person of Shahabaj and ribs were found broken. The abdominal wall and peritoneum were punctured. There was an incised injury on the spleen also. On the person of Sanayya, there were three injuries. The intestines were cut. The abdominal wall and the peritoneum were punctured. The appellant, we see, acted liked a demon showing no mercy to his hapless victims, three of whom were helpless little children and one a woman. The learned counsel for the appellant suggested that we may incline towards leniency because of the age of the accused which was 22 years, and because the case rests upon circumstantial; evidence. Despite these two factors pointed out to us by the learned counsel, we are unable to refuse to pass the sentence of death as we would be stultifying the course of law and justice if we adopt such a course in this case. This is truly the 'rarest of rare cases' and we have no option but to confirm the sentence of death and dismiss the appeal.

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