

Amrik Singh

Vs

State of Punjab

Criminal Appeals Nos. 46-47 of 1988

(A.P. Sen, L.M. Sharma JJ)

18.01.1988

ORDER

1. In these special leave petitions, notice was confined to the question of sentence. We have heard learned counsel for the parties and we grant special leave.

2. While confirming the death sentence passed on the appellant on his conviction on two counts under Section 302 of the Indian Penal Code, 1860 for having committed the double murder of the deceased Tarlok Chand and of his neighbour Bahal Singh by successively stabbing them on the chest with a knife, the 'special reason' recorded by the High Court as enjoined by Section 354 of the Code of Criminal Procedure, 1973 is that they were brutal murders executed in cold blood and therefore the appropriate sentence was one of death. We are inclined to share the view expressed by the learned Judges but we are bound by the rule laid down by this Court in Bachan Singh v. State of Punjab ((1980) 2 SCC 684 : 1980 SCC (Cri) 580) where a Constitution Bench of this Court moved by compassionate sentiments of human feelings has ruled that sentence of death should not be passed except in 'rarest of the rare' cases, except to the extent that the situation has been retrieved by a three Judge Bench in Machhi Singh v. State of Punjab ((1983) 3 SCC 470 : 1983 SCC (Cri) 681) indicating the types of cases where a sentence of death may be imposed. We had indicated in Earabhadrapappa alias Krishnappa v. State of Karnataka ((1983) 2 SCC 330 : 1983 SCC (Cri) 447) that the unfortunate result of the decision in Bachan Singh case ((1980) 2 SCC 684 : 1980 SCC (Cri) 580) is that capital punishment is seldom employed even though it may be a crime against the society and the brutality of the crime shocks the judicial conscience. We wish to reiterate that a sentence or pattern of sentence which fails to take due account of the gravity of the offence can seriously undermine respect for law, and even at the cost of repetition we wish to stress the following observations made in that case : [SCC p. 341, SCC (Cri) p. 458, para 14]

A sentence or pattern of sentence which fails to take due account of the gravity of the offence can seriously undermine respect for law. It is the duty of the court to impose a proper punishment depending upon the degree of criminality and desirability to impose such punishment as a measure of social necessity as a means of deterring other potential offenders. Failure to impose a death sentence in such grave cases where it is a crime against the society - particularly in cases of murders committed with extreme brutality - will bring to naught the sentence of death provided by Section 302 of the Indian Penal Code.

3. Unfortunately, the test laid down in Bachan Singh case ((1980) 2 SCC 684 : 1980 SCC (Cri) 580) is not fulfilled in the instant case. Nor can it be brought within the purview of the class of cases indicated in Machhi Singh case ((1983) 3 SCC 470 : 1983 SCC (Cri) 681). Left with no other

alternative, we are constrained to commute the sentence of death passed on the appellant into one for imprisonment for life.

4. Subject to this modification in the sentence, the appeals fail and are dismissed.

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