

SUPREME COURT OF INDIA

Rahul Alias Raosaheb

Vs.

State of Maharashtra

CrI.A.No.395-96 of 2004

(K.G. Balakrishnan and Dr. Ar. Lakshmanan, JJ.)

17.08.2004

ORDER

K.G. Balakrishnan, J.

1. The appellant was tried by the Court of Session, Pune for offences punishable under Sections 302, 363, 376(2)(/), 377 and 201 of the Indian Penal Code and he was found guilty on all the counts. For the offences of murder punishable under Section 302 IPC, the appellant was sentenced to death and for the offence punishable under Section 376(2)(/) as also for the offence under Section 377 IPC, the appellant was sentenced to undergo imprisonment for life. When the appeal came up for admission, this Court, by order dated 26-3-2004 granted leave and issued notice limited to the question of sentence.

2. We have heard counsel for the appellant and also the counsel for the State of Maharashtra. The prosecution case, in short, is that the appellant enticed a girl aged 4-1/2 years and took her to a deserted place and committed rape and later caused her death by inflicting injuries on her throat. The dead body was wrapped in a gunny bag and left in a pit near a stream. On the next day, the gunny bag was found and the gruesome murder came to light.

3. In the Sessions Court, the prosecution relied on the extra-judicial confession, medical evidence and also the fact that the appellant was found in the company of the deceased in the evening of 24-11-1999. The counsel for the appellant submits that the appellant was aged 24 years at the time of the crime and there was also evidence to the effect that he was in a drunken state and having regard to all attendant circumstances of the case, the appellant may not be visited with the extreme penalty. The counsel for the respondent submitted that the appellant committed an offence of the most heinous nature as he committed rape and then caused the death of the child by inflicting cut injury on the neck and the body was put in the gunny bag with hands and legs tied and these facts show the perversity and depravity of mind of the appellant and prayed that death penalty imposed on the appellant be confirmed.

4. We have considered all the relevant aspects of the case. It is true that the appellant committed a serious crime in a very ghastly manner but the fact that he was aged 24 years at the time of the crime, has to be taken note of. Even though, the appellant had been in custody since 27-11-1999 we are not furnished with any report regarding the appellant either by any probationary officer or by the jail authorities. The appellant had no previous criminal record, and nothing was brought to the notice of the Court. It cannot be said that he would be a menace to the society in future. Considering the age of the appellant and other circumstances, we do not think that the penalty of death be imposed on him.

5. In the result, we confirm the conviction of the appellant on all the counts but for the sentence of death imposed on him under Section 302 IPC, we commute the death sentence to life imprisonment.

6. The appeals are disposed of accordingly.