

ITEM NO.102

COURT NO.6

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO. 864/2013

SHYAM SINGH @ BHIMA

APPELLANT(S)

VERSUS

STATE OF M.P.

RESPONDENT(S)

Date : 01/09/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE PRAFULLA C. PANT
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Appellant(s)

Mr. A.T.M. Rangaramanujam, Sr. Adv.
Mr. Shakeel Ahmed, Adv.
Mr./Ms. Sadiya Shakeel, Adv.

For Respondent(s)

Mr. Naveen Sharma, Adv.
Mr. Mishra Saurabh, Adv.UPON hearing the counsel the Court made the following
O R D E RThe appeal is partly allowed in terms of the signed
order.[VINOD LAKHINA]
COURT MASTER[ASHA SONI]
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 864/2013

SHYAM SINGH @ BHIMA ...APPELLANT

VERSUS

STATE OF M.P. ...RESPONDENT

ORDER

1. By order dated 7th September, 2012, limited notice was issued in this case confined to the question of sentence only.

2. The appellant who has been convicted for the offence under Section 302 IPC was awarded the death penalty by the learned trial Court. The Reference made by the learned trial Court to the High Court has been confirmed and the appeal filed by the accused appellant against the said conviction and sentence has been dismissed.

3. We have heard the learned counsels for the parties. In view of the limited notice that has been issued by order dated 7th September, 2012, we have confined the present consideration to the question of sentence which alone is being dealt with by the present order.

4. No doubt, the accused appellant has been found guilty of triple murder including the murder of both his parents. The manner in which the crime was committed is, indeed, brutal and cruel. The question that confronts the court is whether the offence of triple murder and the manner of commission of crime alone would be sufficient to justify the imposition of the death penalty.

5. We need not burden this order by an exhaustive consideration of the large

number of precedents that would be available on the point laying down the principles on the basis of which the justification for death penalty awarded to an accused is required to be considered. Suffice it would be to notice that some of the principles which have emerged are:

- (1) the age of the accused; [Bachan Singh vs. State of Punjab¹];
- (2) the possibility of reform [Bachan Singh vs. State of Punjab²], [Rajesh Kumar vs. State (NCT of Delhi)]³ ;
- (3) the socio-economic background of the accused; [Mulla & Anr. vs. State of U.P.]⁴
- (4) the circumstances in which the crime has been committed [Dharmendrasinh vs. State of Gujarat]⁵;
- (5) the quality of the evidence which had prevailed with the Court in upholding the

1 (1980) 2 SCC 684 [para 206]

2 (1980) 2 SCC 684 [para 206]

3 (2011) 13 SCC 706 [Para 74]

4 (2010) 3 SCC 508 [Para 80 and 81]

5 (2002) 4 SCC 679 [Para 20]

conviction [Santosh Kumar Satishbhushan Bariyar Versus State of Maharashtra⁶; and
 (6) lack of criminal antecedents [Gudda vs. State of Madhya Pradesh]⁷;

The above enumeration, we must hasten to add; is certainly not exhaustive but is merely illustrative.

6. In the present case, the accused appellant at the time of commission of the crime was admittedly 23 years of age. There is no criminal history of the accused appellant. Though the accused appellant has been in custody for over about five years there is no material on record to show that his conduct while in custody suffers from any blemish.

7. From the deposition of Shivraj Singh (P.W.2), who has been declared

6 [(2009) 6 SCC 498] [Para 56]

7 [(2013) 16 SCC 597] [Para 31]

hostile and cross-examined by the prosecution, it is clear that the accused appellant used to take 'Marijuana' and that he used to forcibly take money from his father. It is also evident from the evidence of P.W.2 that the accused was unemployed and had no source of earning. The family of the accused appellant belongs to a poor and backward socio-economic background. The evidence in the case is entirely circumstantial. Though the same would not be a determinative factor, undoubtedly, as held by this Court in Santosh Kumar Satishbhushan Bariyar Versus State of Maharashtra (supra) the same would be one of the factors that could be taken into account in adjudging the sentence to be awarded.

8. From the above, it would appear to us that the accused appellant is a young

man addicted to drugs who needed money to sustain his habits. The accused comes from a deprived socio-economic background without any criminal history and his conduct while in custody does not suffer from any blemish. The possibility of reformation, on the materials on record, cannot be ruled out. Having regard to the broad and illustrative principles discussed above, we are of the view that the present is a case where we would be justified in holding that instead of death penalty the punishment of life imprisonment subject to the provisions of remission, etc. under the Code of Criminal Procedure, 1973 would be adequate to meet the ends of justice. We, therefore, order accordingly and commute the sentence of death penalty to life imprisonment.

9. The appeal consequently is partly allowed in the above terms.

.....,J.
(RANJAN GOGOI)

.....,J.
(PRAFULLA C. PANT)

.....,J.
(UDAY UMESH LALIT)

NEW DELHI
SEPTEMBER 01, 2016

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