

FIR No. 940/14
State Vs. Pramod Kumar & Ors.
U/s : 302/201/364/457/380/411/404/34 IPC
P.S.: Dwarka North
SC NO. 440255-16

Order on sentence

23.12.2019

Present: Sh. Dushyant Siwatch, Ld. Addl. PP for the State.
Convict Gaurav Sharma produced from JC with counsel
Sh. Mukesh Sharma.
Convict Rohit produced from JC with counsel LAC Sh.
Manish Kumar.
Sh. Pranav Gupta, Counsel for Complainant.

Today, the matter is fixed for arguments on order of sentence.

Arguments have been addressed on the point of sentence.

It is submitted on behalf of convict Gaurav Sharma that he is 27 years old and having old age parents and he is the only bread earner in his family and except him no other earning member in his family. It is submitted on behalf of accused Rohit Gupta @ Gulshan that he is 40 years old and having old age parents who are suffering from old age ailments and also having two children aged about 18 and 11 years who are living with their old age parents. It is further submitted on behalf of

accused Rohit Gupta @ Gulshan that his wife has taken divorce from the accused Rohit Gupta on the ground that accused suffering from cancer. It is further submitted on behalf of accused Rohit Gupta @ Gulshan that he is suffering from the 'Cancer' disease. Ld. Counsel for the convicts have prayed for a lenient view.

On the other hand, Ld. APP for the State and counsel for the complainant have submitted that convicts Rohit Gupta and Gaurav Sharma have committed the murder of deceased in order to grab his properties situated at Mohan Garden and Uttam Nagar. It is stated that considering the nature of offence, severe punishment should be awarded to the convicts as valuable life of deceased has been lost. It is further submitted that convicts do not deserve any leniency and they be awarded death penalty.

In rebuttal the counsel for the convicts have submitted that the case does not within the category of rarest of rare case and a lenient view may kindly be taken.

Heard.

There are two types of punishment for murder i.e. punishment for life or death by hanging. It has been held in ***Rabindra Kumar Pal Vs. Republic of India, AIR 2011 SC 1436*** that “***Whether a case falls within the rarest of rare case or not has to be examined with reference to the facts and circumstances of each case and court has to take note of the aggravating as well as mitigating circumstances and conclude whether there was something uncommon about the crime which renders the***

sentence of imprisonment for life inadequate and calls for death sentence”. By applying the above theory, it is observed in the present matter that the manner and mode of murder is not brutal. There are no aggravating circumstances warranting death sentence. Hence, the present case does not fall within the category of rarest of rare case. Accordingly, **convict Gaurav Sharma and Rohit Gupta are sentenced to undergo rigorous imprisonment for life for commission of offence under Section 302 IPC and to pay fine of Rs. 25,000/- each and in default to pay fine, they shall undergo simple imprisonment for 03 months.**

Convict Rohit Gupta and Gaurav Sharma are also sentenced to undergo rigorous imprisonment for 02 years for commission of offence under Section 201 IPC and to pay fine of Rs. 5,000/- each and in default to pay fine, further simple imprisonment for 03 months.

Convict Rohit Gupta and Gaurav Sharma are also also sentenced to undergo rigorous imprisonment for 10 years for commission of offence under Section 364 IPC and to pay fine of Rs. 5,000/- each and in default to pay fine, further simple imprisonment for 03 months.

Convict Rohit Gupta is also sentenced to undergo rigorous imprisonment for 02 years for commission of offence under Section 404 IPC and to pay fine of Rs. 5,000/- and in default to pay fine,

further simple imprisonment for 03 months.

All the sentences shall run concurrently.

Fine not paid by convicts.

Benefit of Section 428 Cr. P.C. be given to the convicts.

Copy of order on sentence be given to convicts free of cost.

File be consigned to the record room.

**Announced in open court
on 23.12.2019**

**(Ajay Goel)
ASJ/ Spl. Judge (NDPS)
Dwarka Courts, New Delhi**