

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**WEDNESDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX**

:PRESENT:

**THE HON'BLE SRI JUSTICE K.LAKSHMAN
AND**

THE HON'BLE SRI JUSTICE B.R.MADHUSUDHAN RAO

REFERRED TRIAL NO: 4 OF 2025

Between:

The State of Telangana, through the Sub Divisional Police Officer, PS Vikarabad, rep. By Public Prosecutor, High Court for the State of Telangana, Hyderabad.

Complainant

AND

Guru Praveen Kumar, S/o. Krishna (Late), aged 32 Years, Occ: Private work at Leesa Ample and wiles at Shivareddypet, Vikarabad, R/o. H.No. 4-2-186, Old Light, Issakhanbagh Colony, Vikarabad Town, Vikarabad District, N/o. H.No. 1-11-110/33, Tatachary Colony, Shamlal Building, Begumpet, Hyderabad.

....Accused

Petition under Section 407 of BNSS, through letter vide Dis. No. 3092/2025, dated: 27.11.2025 from the office of the Principal District and Sessions Judge, Vikarabad, Vikarabad District, praying the High Court to confirm the death sentence awarded vide judgment dated 20-11-2025 against the Accused by the Principal District and Sessions Judge, Vikarabad, Vikarabad, in SC. No. 38 of 2021, under Section 302 of IPC;

The Referred Trial coming on for hearing, and the High Court upon perusing the letter, and upon hearing the arguments of Public Prosecutor, for the Petitioner/Complainant, made the following;

ORDER:

This appeal is filed by appellant/accused. He has been languishing in Cherlapally Jail. *Vide* the impugned Judgment dated 20.11.2025, learned trial Court imposed the sentence of death upon the appellant herein.

In view of the facts referred to above, gainful reference can be made to the guidelines issued by the Hon'ble Supreme Court in *Manoj v. State of Madhya Pradesh*¹, wherein the supreme Court mandated the appointment of trained mitigation

¹ (2023) 2 SCC 353

investigators to assess mitigating circumstances in relation to an accused facing the death penalty. The Hon'ble Supreme Court therein held that such mitigators may also be appointed at the appellate stage, either suo motu or on the application of the accused, so as to ensure a real, effective and meaningful opportunity on the issue of sentence. The Court emphasised that sentencing cannot be a mechanical exercise and that the requirement under Section 235(2) Cr.P.C. of a separate hearing must not be reduced to a mere formality.

While issuing the guidelines on appointment of mitigators, the Hon'ble Supreme Court relied on the following directions issued in *Byluru Thippaiah @ Byaluru Thippaiah @ Nayakara Thippaiah v. The State of Karnataka*² :

- i. The respondent-State shall place before this Court the report(s) of all the Probation Officers relating to the appellant within a period of eight (8) weeks.
- ii. The Superintendent of Prison, Central Prison, Belagavi, Karnataka, shall submit a report with regard to the nature of work which has been performed by the appellant while in jail and a report with regard to the conduct and behaviour of the appellant while in jail within a period of eight (8) weeks.
- iii. The Head of Dharwad Institute of Mental Health & Neurosciences shall constitute a suitable team for the purpose of carrying out a psychological evaluation of the appellant. The report of the evaluation shall be submitted to this Court through the Standing Counsel for the State of Karnataka within a period of eight (8) weeks.
- iv. Ms. Neha Kangralkar is permitted to have access to the Appellant who is presently lodged in Central Jail, Belagavi (Hindalga Jail), Karnataka, to conduct multiple in-person interviews for the purpose of collecting information relevant to sentencing and to submit a Mitigation Investigation Report on behalf of the Appellant through the Appellant's Advocate-on-Record within twelve weeks.
- v. Direct the Central Jail Belagavi that, for the sake of confidentiality, these interviews shall be conducted in a separate interviewing space without any prison official or police staff being within earshot distance, and audio recorders be permitted to be used to record the interviews.

² SLA (Cr.) Nos.9672-9673/2023, dated 21.08.2023

vi. Direct that a person nominated by Ms. Neha Kangralkar is permitted to accompany her to translate during the interview.

vii. Grant permission to Ms. Neha Kangralkar to obtain documents pertaining to the Appellant, including but not limited to medical records, jail conduct, certificates of any educational, vocational or employment opportunities undertaken, etc. that the Appellant may wish to submit for the purpose of sentencing information.”

Further, reference may be made to the judgment of the Constitution Bench in *Suo Motu Writ Petition (Crl.) No.1 of 2022, In Re: Framing Guidelines Regarding Potential Litigating Circumstances to be Considered While Imposing Death Sentences*]³ wherein the Hon’ble Supreme Court observed that there exists a clear divergence of judicial opinion regarding what constitutes a meaningful opportunity for the accused at the sentencing stage. The Court noted that aggravating circumstances are always part of the prosecution evidence leading to conviction, whereas an accused is scarcely in a position to place mitigating material on record at that stage because such material is relevant only after the conviction is recorded. This places the convict at a hopeless disadvantage and tilts the scales heavily against him. The Court held that it is necessary to ensure uniformity in approach and to guarantee real and meaningful opportunity to the accused rather than a mere formal hearing.

The relevant paragraph is extracted hereunder:

“30. In light of the above, there exists a clear conflict of opinions by two sets of three judge bench decisions on the subject. As noticed before, this court in *Bachan Singh* had taken into consideration the fairness afforded to a convict by a separate hearing, as an important safeguard to uphold imposition of death sentence in the rarest of rare cases, by relying upon the recommendations of the 48th Law Commission Report. It is also a fact that in all cases where imposition of capital punishment is a choice of sentence, aggravating circumstances would always be on record, and would be part of the prosecution's evidence, leading to conviction, whereas the accused can scarcely be expected to place mitigating circumstances on the record, for the reason that the stage for doing so is after conviction. This places the convict at a

³ 2022 SCC OnLine SC 2153.

hopeless disadvantage, tilting the scales heavily against him. This court is of the opinion that it is necessary to have clarity in the matter to ensure a uniform approach on the question of granting real and meaningful opportunity, as opposed to a formal hearing, to the accused/convict, on the issue of sentence.”

Useful guidance is also available from the detailed order of the Division Bench of Kerala High Court in *State of Kerela v. Nino Mathew*⁴, wherein, after an extensive analysis of the entire line of Supreme Court precedent including *Manoj* (supra), *Accused X v. State of Maharashtra*⁵, *Santosh Kumar Bariya v. The State of Maharashtra*⁶, and others, it was held that there is no legal bar to commencing mitigation investigation at the appellate stage even before the appeal is heard on merits. The Kerala High Court held that mitigation investigation may be commenced immediately after admission of a death reference so that the matter is not protracted later and that the report may, if necessary, be kept in a sealed cover until the issue of conviction is determined, to avoid any prejudice. The Court also recognized that inadequate mitigation at the trial stage may be remedied or supplemented through mitigation investigation undertaken at the appellate stage.

“38. So, it can be seen that the 3 Judge Bench of the Apex Court in the aforementioned interim orders, in various pending cases, as well as the Bombay High Court had taken the view that if the assessment regarding mitigating circumstances is made in advance, before the learned Advocates for both sides advance their submissions on the merits of the main appeals, then such an approach is helpful in every respect. The said orders would also indicate that the expert associated with Project 39A of National Law University (NLU), New Delhi, has been appointed by the Apex Court to make independent assessment. The involvement of Project 39A of National Law University (NLU), New Delhi, has also been inter alia mentioned in para 3 of Sundar's case supra.”

In this context, reference is made to the interim order passed by a three-Judge Bench of the Hon'ble Supreme Court in *Ramanand @ Nandlal Bharti v. State of Uttar Pradesh*, arising out of SLP (Crl.) Nos. 6587–6588 of 2021, wherein the Apex Court, by

⁴ 2023 SCC OnLine Ker 6978

⁵ (2019) 7 SCC 1

⁶ (2009) 6 SCC 498

its order dated 10-01-2022, issued the relevant directions., following its earlier directions in *Manoj* (supra), directed the State to place probation reports, jail conduct reports, psychological evaluations and permitted mitigation interviews in advance, even before hearing on conviction was concluded, thereby reaffirming that such proactive mitigation exercise at the appellate stage is both permissible and necessary.

“We have passed certain directions in *Manoj v. State of M.P.* (Crl.A. No.248-250/2015) and some other death sentence matters, which directions were passed after conclusion of the arguments on the issue of conviction. However, the assessment, if made in advance, before the learned counsel makes the submissions, will be helpful in every respect.”

The Kerala High Court thus affirmed that a proactive approach at the appellate stage and appointment of Mitigator before hearing the appeal is not only permissible but advisable in ensuring compliance with the constitutional and statutory mandate flowing from *Bachan Singh*, Section 354(3) Cr.P.C., and Section 235(2) Cr.P.C.,.

In the present case too, as the appellant/accused is facing death penalty, we deem it appropriate and expedient to appoint Ms.Devika Rawat, Senior Mitigation Associate, The Square Circle Clinic, NALSAR University of Law, Hyderabad, as a Mitigating Investigator. We direct Ms.Devika Rawat to assess the conduct and behavior of the appellant/accused and submit a Mitigation Investigation Report. For the said purpose, we issue the following directions:

- i. She shall have access to the appellant/accused for the purpose of conducting in person interviews and collecting information to assess the mitigating circumstances. The Superintendent of Central Prison, Cherlapally, shall ensure that such access is granted till the interviews are completed to the satisfaction of the mitigator.
- ii. She shall also have access to the records pertaining to the mental health, conduct, education, employment, etc. of the accused /appellant or any other document which would indicate mitigating factors;
- iii. She is permitted to use audio devices to record the interviews;
- iv. She is at liberty to take assistance of any person capable of translating the statements made by the appellant/accused during the interview. Needless to say, the Superintendent of Central Prison, Cherlapally, shall permit such translator to accompany her;

- v. To ensure privacy and confidentiality, the Superintendent of Central Prison, Cherlapally, is directed to provide a separate interviewing space to her;
- vi. For the purposes of safety and protection of her, a prison or jail official shall be deployed within a earshot distance of the interviewing space;
- vii. She is directed to submit the Mitigating Investigation Report within a period of four (04) weeks from the date of receipt of the copy of this Order. The said Report shall be filed through the Registrar (Judicial-I) of this Court;
- viii. The State shall pay an amount of Rs.25,000/- (Rupees Twenty-Five Thousand Only) to her towards expenses.

In addition to the above directions, we also direct the concerned authorities as follows:

- i. The Superintendent of Central Prison, Cherlapally, shall submit a report regarding the work, if any, done by the appellant/accused while in jail and also submit a report regarding his conduct and behaviour while in jail within a period of Four (04) weeks from the date of receipt of copy of this order;
- ii. The Superintendent/Professor of Psychiatry, Institute of Mental Health, Erragadda, Hyderabad, shall constitute a suitable team for the purpose of carrying out a psychological evaluation of appellant-accused. The report of the evaluation shall be submitted to this Court through the Public Prosecutor, High Court for the State of Telangana, in a sealed cover, within a period of Four (04) weeks.

The Registrar (Judicial-I) of this Court is directed to transmit a copy of this order to the learned Public Prosecutor, High Court for the State of Telangana, who shall, in turn, ensure that this order is communicated to the concerned Authorities and Ms.Devika Rawat, The Square Circle Clinic, NALSAR University of Law, Hyderabad, Mobile +91 9971099172 & e-mail: devika.rawat@nalsar.ac.in, for compliance. The Registrar (Judicial-I) shall, in addition, send a due intimation to all the concerned Authorities immediately for compliance.

All the reports shall be duly complied with and placed before this Court on the next date of hearing i.e., 25.03.2026.

Learned counsel for the parties to assist the Registry in placing the aforesaid reports on record in compliance of this order.

List on 25.03.2026 along with Crl.A.No.1315 of 2025.

Sd/- B. SATYAVATHI
JOINT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To

1. Ms.Devika Rawat, Senior Mitigation Associate, The Square Circle Clinic, NALSAR University of Law, Hyderabad. (BY SPEED POST)
2. The Superintendent of Central Prison, Cherlapally, Medchal Malkajgiri District. (BY SPEED POST)
3. The Secretary to Government, Legal Affairs Legislative Affairs and Justice Law Department, Government of Telangana, Hyderabad (BY SPL. MESSENGER)
4. The Superintendent/Professor of Psychiatry, Institute of Mental Health, Erragadda, Hyderabad. (BY SPL. MESSENGER)
5. The Registrar (Judicial-I), High Court for the State of Telangana, at Hyderabad
6. Two CCs to the Public Prosecutor, High Court for the State of Telangana, Hyderabad (BY SPL. MESSENGER)
7. Two Spare Copies

HIGH COURT

**KL,J
&
BRMR,J**

DATE: 04-02-2026

NOTE: POST ON 25-03-2026

ORDER

R.T. NO.4 OF 2025



DIRECTION