

v"

Cr1.A.No. 395-396 OF 2004

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.395-396 OF 2004

RAHUL @ RAOSAHEB.....APPELLANT(S)

VERSUS

STATE OF MAHARASHTRA.....RESPONDENT(S)

O R D E R

The appellant was tried by the Court of Session, Pune for offences punishable under Sections 302, 363, 376(2)(f), 377 and 201 of the Indian Penal Code and ,mhe 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)(f) 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.

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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 it in a pit near a stream. On the next day, the gunny bag was found and the gruesome murder came into light.

In the Sessions Court, 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 the offence of most heinous nature and he committed rape and then

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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.

We have considered all the relevant aspects of the case. It is true that the appellant committed 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 the custody since 27.11.1999 we are not furnished with any report regarding 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 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.

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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.

onment.
The appeals are disposed of accordingly.

.....J.
(K.G.BALAKRISHNAN)

.....J.
(Dr.AR. LAKSHMANAN)

New Delhi;
August 17, 2004

ITEM NO.103

COURT NO.5

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 NOS.395-396 OF 2004

RAHUL @ RAOSAHEB.....APPELLANT(S)

VERSUS

STATE OF MAHARASHTRA.....RESPONDENT(S)

Date :17/8/2004 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Appellant (s)
Mr.K. Radha Krishan, Sr.Adv.
Mr. Sudhir Kulshreshtha, Adv.

For Respondent (s)
Mr. Mukesh K. Giri, Adv.
Mr. Ravindra Keshavrao Adsure, Adv.

UPON hearing counsel, the Court made the following
O R D E R

The Criminal Appeals are disposed of in terms of the signed order.

(SUKHBIR PAUL KAUR)(VEERA VERMA)
COURT MASTER COURT MASTER

(Signed Order is placed on the file)