

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NOS.24-25/2015

GURPAL SINGH

Appellant(s)

VERSUS

STATE OF PUNJAB & ANR.

Respondent(s)

WITH

CrI.A. No. 26/2015 (II-B)

O R D E R

The notice was issued limited to the question of quantum of sentence.

We have heard learned counsel for the parties.

We have not a slightest hesitation in stating that it is a gruesome case of four murders, one of which was a child and only arising from the greed of the convict to obtain a share in his wife's property. He put to death his wife's near and dear ones. The convict was an ex-Police officer who had been dismissed from service.

The trial Court imposed the final punishment of death sentence. The High Court while confirming the conviction, exercised its discretion by modifying the sentence to one for life with the direction that the convict will undergo 25 years of actual imprisonment without any sort of remission.

The substratum of the plea of Mr. Swaraj Kaushal, learned senior counsel appearing for the convict is there is subsequent development as the convict has been detected with HIV. This aspect is confirmed by learned counsel for the State who has placed the

relevant report before us. She, however, also states that all necessary treatment is being given and the reports seem to suggest that the detection was made at an early stage. The treatment available for HIV cases is far more advanced today than may have been a decade ago. It is possible to have life for many years depending on when it is detected and how the medical discipline is adhered to.

Learned counsel did seek to rely upon the order passed in certain cases where detection of HIV has been a ground for remission. He has specifically relied upon an order passed in *Deepu @ Asit Bajpai v. State of Uttar Pradesh - Criminal Appeal No.1282/2012* where in case of conversion of death sentence into life imprisonment, on account of HIV detection, the convict was permitted to seek remission of sentence from the competent authority considering the ailment.

On the other hand, learned counsel for the complainant and family members of the survivors of the crime have also filed appeal seeking restoration of death sentence. They are naturally aggrieved, more so by the gruesomeness of the crime where they lost four members of the family including a young child. The endeavour was to point out that it was not an accidental fire which killed the child but a clear deliberate conduct. Over the latter, we have no doubt.

We have given a thought to the matter and in view of all the facts and circumstances, more so keeping in mind the gruesomeness of the crime, we are not willing to reduce the period of sentence to a fix term less than what has been fixed by the High Court.

Simultaneously, we are also not inclined to restore the death sentence. Insofar as the detection of HIV is concerned, we have already mentioned above that survival depends on many factors and in case of early detection and proper treatment, there is every possibility where the convict would even survive a period of 25 years. This is not a case where the subsequent detection of HIV alone would cause us to intervene and reduce the period of maximum sentence required to be served as the High Court has imposed. However, we would like to temper our aforesaid view with a possibility of a scenario where the condition of the convict deteriorates and medical opinion supports that he has not much period to survive, say a year or so. It is only and only in that eventuality that we permit the case of the convict to be examined by the concerned authorities for a premature release.

In view of the submissions, we are noticing that the settled legal position that the power of the President and Governments of the States under Articles 72 and 161 of the Constitution of India are naturally not affected.

The appeals are dismissed in the aforesaid terms.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[K.M. JOSEPH]

NEW DELHI;
MARCH 05, 2020.

ITEM NO.101

COURT NO.12

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 24-25/2015

GURPAL SINGH

Appellant(s)

VERSUS

STATE OF PUNJAB & ANR.

Respondent(s)

([PART-HEARD BY HON'BLE SANJAY KISHAN KAUL AND HON'BLE K.M. JOSEPH ,JJ.] FOR FINAL DISPOSAL)

WITH

Cr1.A. No. 26/2015 (II-B)

Date : 05-03-2020 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE K.M. JOSEPH

Counsel for parties:-

Mr. Swaraj Kaushal, Sr. Adv.
Mr. S.K. Pabbi, Adv.
Ms. Shikha Roy, Adv.
Mr. Ajay Kumar Singh, AOR

Mr. Ajay Kumar Singh, Adv.
Mr. Satyendra Kumar Singh, Adv.
Ms. Astha Sharma, Adv.
Ms. Arshiya Ghose, Adv.

State

Ms. Jaspreet Gogia, AOR

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Mr. Abhishek Sharma, Adv.
Mr. Manoj Sharma, adv.
Mr. Shiv K. Goyal, Adv.
Mr. Arvind Kumar, Adv.
Mr. Neeraj Kumar, Adv.
Mr. Atul Kumar, Adv.

Mr. Pradeep Gupta, Adv.
Mr. Parinav Gupta, Adv.
Ms. Mansi Gupta, Adv.
Dr. Mrs. Vipin Gupta, Adv.

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

The appeals are dismissed in terms of the signed order.

Pending application, if any, stands disposed of.

(ANITA RANI AHUJA)
COURT MASTER

(ASHA SUNDRIYAL)
AR CUM PS

[Signed order is placed on the file]