

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 08.04.2009

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DEATH SENTENCE REF. 3/2008

STATE

... Petitioner

- versus -

RAMINDER SINGH @ HAPPY

... Respondent

Advocates who appeared in this case:

For the Petitioner/ State : Mr Sunil Sharma

For the Respondent : Ms Anu Narula

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE P. K. BHASIN

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in Digest?

BADAR DURREZ AHMED, J (ORAL)

1. This is a death sentence reference under Section 366 of the Code of Criminal Procedure, 1973 whereby the learned Additional Sessions Judge has imposed a sentence of death on the convict Raminder Singh @ Happy after having found him guilty under Sections 302/323 IPC as well as Section 27 of the Arms Act.

2. The prosecution case, which has been believed by the Trial Court while convicting the said convict, is that Smt. Harjeet Kaur, who

is a house wife, was living at S-2/81, Old Mahavir Nagar, Delhi along with her husband and two sons Gurmeet Singh aged 22 years and Prabhjot Singh aged 16 years. The convict Raminder Singh @ Happy is the second son of her sister-in-law Malvinder Kaur. He had a shirt manufacturing unit at Anand Parbat. Gurmeet Singh, who was the complainant's son, used to sell gents' *pajamas* at Karol Bagh in hangers. Raminder Singh @ Happy suspected that Gurmeet Singh was spoiling his business by calling his parties over telephone. As such he had developed enmity against Gurmeet Singh and was not on visiting terms.

3. On 26.10.2002 at about 10:15 pm Gurmeet Singh had returned from work. While he was washing his face at about 11 pm, Raminder Singh @ Happy came to his house and questioned Gurmeet as to why he was calling his parties over the phone. Gurmeet denied having called any of his parties as he had a separate business. Upon this Raminder Singh @ Happy got angry and took out a knife concealed in his sock of the right foot and inflicted injuries on the neck and chest of Gurmeet. When the complainant Smt. Harjeet Kaur and her younger son Prabhjot Singh tried to save Gurmeet, Raminder Singh @ Happy also stabbed Prabhjot Singh and hit Smt. Harjeet Kaur and gave a fist blow to Smt. Harjeet Kaur on her face. Both the sons of Smt. Harjeet Kaur fell down and she raised an alarm. The neighbours

came there on hearing the alarm and apprehended Raminder Singh @ Happy and locked him in a room. Gurmeet Singh died at the spot and Prabhjot Singh died in hospital on 29.10.2002. The accused was arrested by the police. The weapon of offence, that is, the knife was recovered and the charge-sheet was submitted under Section 302/323 IPC. Thereafter, the trial commenced and concluded and the Trial Court found the prosecution story to have been proved beyond doubt. As a result, the said Raminder Singh @ Happy was convicted by the judgment dated 23.08.2008. The order on sentence was passed on 27.08.2008 and is before us for confirmation of the sentence of death awarded by the learned Additional Sessions Judge.

4. We have heard the learned counsel for the parties at great length. We have not only examined the case from the standpoint of the confirmation of death sentence but also from the point of the guilt of Raminder Singh @ Happy. At this juncture, we may point out that he has not filed any appeal and has refused to do so even upon questioning by the learned Amicus Curiae, who met with him in Court as well as in prison. All the same, we have examined the case from both standpoints.

5. On the point of conviction, we are of the clear view that the Trial Court has rightly convicted Raminder Singh @ Happy under Section 302/323 IPC and Section 27 of the Arms Act.

6. The convict Raminder Singh @ Happy had inflicted injuries in front of PW2 Harjeet Kaur. The said witness has fully supported the prosecution case. Her testimony as to the incident and the manner in which the crimes were committed remains undisturbed even though she was subjected to lengthy cross-examination. Moreover, the injuries sustained by both the victims Gurmeet and Prabhjot as indicated by PW19 Dr L. K. Barua and PW22 Dr B. N. Mishra corroborate the version given by PW2 Harjeet Kaur. In his statement under Section 313 of the Code of Criminal Procedure, 1973, Raminder Singh @ Happy admitted his presence at the scene of crime. However, he denied that he had a knife or had committed the crime. The Trial Court felt that he was unable to satisfactorily explain the reason for his presence. Considering all these factors, we are of the view that Raminder Singh @ Happy has been rightly convicted under Section 302/323 IPC read with Section 27 of the Arms Act, 1957 for committing the murder of his cousins Gurmeet Singh and Prabhjot Singh and for causing hurt to their mother, Harjeet Kaur.

7. Insofar as the death sentence is concerned, we have gone through the various decisions of the Supreme Court including the

leading decision in the case of **Bachan Singh v. State of Punjab:** (1980) 2 SCC 684. The said decision was again considered by the Supreme Court in the case of **Machhi Singh & Others v. State of Punjab:** (1983) 3 SCC 470. In *Machhi Singh* (*supra*), the Supreme Court observed as under:-

“38. In this background the guidelines indicated in Bachan Singh's case (*supra*) will have to be culled out and applied to the facts of each individual case where the question of imposing of death sentences arises. The following propositions emerge from *Bachan Singh's case*:

- (i) The extreme penalty of death need not be inflicted except in gravest cases of extreme culpability;
- (ii) Before opting for the death penalty the circumstances of the 'offender' also require to be taken into consideration along with the circumstances of the 'crime'.
- (iii) Life imprisonment is the rule and death sentence is an exception. In other words death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime, and provided, and only provided the option to impose sentence of imprisonment for life cannot be conscientiously exercised having regard to the nature and circumstances of the crime and all the relevant circumstances.
- (iv) A balance-sheet of aggravating and mitigating circumstances has to be drawn up and in doing so the mitigating circumstances has to be accorded full weightage and a just balance has to be struck between the aggravating and the mitigating circumstances before the option is exercised.

39. In order to apply these guidelines inter-alia the following questions may be asked and answered:

- (a) Is there something uncommon about the crime which renders sentence of imprisonment for life inadequate and calls for a death sentence?
- (b) Are the circumstances of the crime such that there is no alternative but to impose death sentence even after according maximum weightage to the mitigating circumstances which speak in favour of the offender?

40. If upon taking an overall global view of all the circumstances in the light of the aforesaid proposition and taking into account the answers to the questions posed here in above, the circumstances of the case are such that death sentence is warranted, the court would proceed to do so.”

8. It is, therefore, clear that we have to examine the question of death sentence from the standpoints indicated above. There is no denial that life imprisonment is the rule and death sentence is an exception. The Supreme Court has also indicated that death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime, and provided, and only provided, the option to impose sentence of imprisonment for life cannot be conscientiously exercised having regard to the nature and circumstances of the crime and all the relevant circumstances. Considering the manner in which the crime was committed as well as the attitude of the criminal in this case, we are not convinced that life imprisonment appears to be an altogether inadequate punishment. We

are also of the view that this case does not fit in the category of “rarest of the rare” cases and, therefore, we are unable to confirm the death sentence awarded by the learned Additional Sessions Judge. The sentence is, therefore, converted into one of life imprisonment. The sentences for the other offences under Section 323 IPC and Section 27 of the Arms Act are maintained. This reference is decided accordingly.

BADAR DURREZ AHMED, J

P. K. BHASIN, J

April 08, 2009
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