

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2710 OF 2016

Vithal Eknath Adlinge ... Petitioner
Vs.
Jail Superintendent & Ors. ... Respondents

Mr. Victor Chettiyar i/b. Mr. Ajinka Badar, Advocate for the petitioner.
Mr. Arfan Sait, APP for the respondent/State.

CORAM: **SMT. V.K. TAHILRAMANI &
MRS.MRIDULA BHATKAR, JJ.**

DATE: **OCTOBER 18, 2016**

ORAL JUDGEMENT: (Per Smt. V.K. Tahilramani, J.)

1. Heard both sides.
2. Rule. By consent, Rule is made returnable forthwith.
3. The petitioner is seeking premature release. By the judgment and order dated 11th March, 2002, the petitioner was convicted under section 302 of Indian Penal Code for causing death of his wife Lata by assaulting her on the head with grinding stone.
4. The order of Home Department dated 18th May, 2016 shows that the petitioner has been placed in category 1(e) of the 1992 guidelines and 2(c) of 2010 guidelines. The 1992 guidelines state that the prisoner falling under that category will be released from prison after completing 28 years with remission. Category 1(e) of the 1992 guidelines deals with cases of

murder of a woman where the crime is committed with exceptional violence or with perversity. Category 2(c) of 2010 guidelines states that a prisoner falling under that category will be released after completing 26 years with remission. Category 2(c) of 2010 guidelines deals with offences against women where the crime is committed with exceptional violence and or with brutality or death of victim is due to burns. In view of the decision of the Hon'ble Supreme Court in the case of **State of Haryana & Ors. vs. Jagdish, AIR 2010 SC 1690**, a prisoner has to be given a benefit of whichever guideline provides for lesser period. In this view of the matter, it would have to be held that the petitioner falls under category 2(c) of 2010 guidelines.

5. The learned counsel for the petitioner submitted that the incident has occurred in a moment of anger and without premeditation, hence the case would fall under 2(a) of 2010 guidelines, which provides for offences relating to women and where the convict has no previous criminal history and committed the murder in an individual capacity in a moment of anger and without premeditation. We have carefully gone through the evidence and we find that there is no reliable evidence to show that the incident occurred in a moment of anger or that it was without premeditation.

6. Thereafter the learned counsel for the petitioner submitted that the

case would not fall under category 2(c) of 2010 guidelines because the present case is not one of exceptional violence and or brutality or due to burns. A convict would fall under category 2(c) if the crime committed by him against the women is committed with exceptional violence or brutality or due to burns. In the present case, the petitioner has committed the murder of his wife by assaulting her with grinding stone. The medical evidence shows that the wife of the petitioner was 5 months pregnant at the time of incident. She has sustained several fractures to her skull. The details of the internal injuries are as under:

- i) Fracture skull in Rt. Temporal region 8 cms. X complete semicirculars.
- ii) Fracture skull in left Parietal region “ + “ 4 cms X 4 cms X complete.
- iii) Horizontal fracture in occiput 4 cms X complete .
- iv) Haemorrhage in the frontal temporal and occipital lobes of the cerebrum and cerebellum.

7. The medical evidence shows that the deceased was 20 weeks pregnant. The number of injuries amply make it clear that the intention of the accused was to cause death of the victim. The evidence on record shows that the accused ruthlessly and mercilessly assaulted Lata by means of a grinding stone (Article 1) till she died. In this view of the

matter, the case of the petitioner would clearly fall under Category 2(c) of 2010 guidelines. The order dated 18th May, 2016 also shows that the case of the petitioner falls under category 2(c) of the 2010 guidelines.

8. In view of the above facts, we are not inclined to interfere. Rule is discharged.

(MRIDULA BHATKAR, J.)

(V.K. TAHILRAMANI, J.)