

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2026
(Arising out of SLP(CRL.) NO.13632 OF 2025)

AMJAD KHAN

APPELLANT(S)

VERSUS

STATE OF CHHATTISGARH

RESPONDENT(S)

O R D E R

Leave granted.

2. Briefly stated, the facts of the case are that on the night of 09.08.2018, appellant's wife and two children were found dead with injuries in their home. Subsequently, FIR No.217 dated 10.08.2018 came to be registered against the appellant at Police Station Chakrabhata, District Bilaspur, under Section 302 of the Indian Penal Code, 1860 (for short "IPC"). The appellant was taken into custody on suspicion of the murders the next evening.

2.1 The prosecution's case rested entirely on circumstantial evidence. The Trial Court in Sessions Case No.144/2018, relying on the last-seen theory, the appellant's unexplained absence and recovery of the weapon

and clothes, held that the appellant, driven by financial difficulties, had murdered his wife and two children. The Trial Court convicted the appellant under Section 302 of the IPC and sentenced him to life imprisonment for each of the three murders to run concurrently.

2.2 The appellant's appeal, being CRA No.706 of 2021, was dismissed by the High Court, which invoked Section 106 of the Indian Evidence Act, 1872 to hold that the appellant had failed to explain the deaths occurring within his own household and his absence at the relevant time.

2.3 Aggrieved by the dismissal of his appeal, the appellant has preferred the present appeal.

3. We have heard learned counsel, Dr. Nirmal Chopra for the appellant and learned standing counsel and Deputy Advocate General appearing for the respondent-State of Chhattisgarh. We have perused the material on record.

4. During the course of submissions, learned counsel for the appellant drew our attention to one crucial aspect of the matter since we were not inclined to interfere with the case on merits, that is, with regard to the nature of

the sentence imposed on the appellant by the Trial Court *vide* its judgment dated 28.05.2021. Noting the gruesome multiple murders that were committed by the appellant in a single incident, the Trial Court observed as under:

“63. On the question of punishment, the accused, his advocate and the Public Prosecutor on behalf of the prosecution were heard. The accused submitted that he is a first-time offender and the act appears to have been committed due to financial difficulties, hence a lenient view should be adopted.

64. This case does not appear to be of the rarest category, it appears that the accused, troubled by financial difficulties, committed this act with the intention of not allowing his family to suffer before committing suicide. Therefore, considering the entire circumstances of the case, the accused Amjad Khan is punished as follows:-

Sr. No.	Details of charge	Penalty order	Sentence in default of fine
1.	For the crime committed murder of wife Sharifa Begum under Section 302 Indian Penal Code	Life Sentence and 1000/- (One Thousand Rupees) fine	Rigorous imprisonment of 06 (six) months
2.	For the crime committed murder of daughter Anjum Nisha under Section 302 Indian Penal Code	Life sentence and 1000/- (One thousand Rupees) fine	Rigorous imprisonment of 06 (six) months

Sr. No.	Details of charge	Penalty order	Sentence in default of fine
3.	For the crime committed murder of son Aftab under Section 302 Indian Penal Code	Life Sentence and 1000/- (One thousand Rupees) Fine	Rigorous imprisonment of 06 (six) months

All three imprisonments will be served simultaneously. It is noteworthy that the accused Amjad Khan has not only killed his wife but also his two small innocent children, therefore in this case life imprisonment will mean till the death of the accused Amjad Khan.

65. In this case, the accused has been in judicial custody for a total of 02 years, 09 months and 17 days from 11-08-2018 to today's date 28-05-2021, this period will be adjusted with the period of imprisonment under Section 428 of the Code of Criminal Procedure, the certificate is mentioned after the judgment."

5. Learned counsel for the appellant submitted that the Trial Court could not have while awarding life imprisonment also qualified the same by stating that the life imprisonment will mean "till the death of the accused". Drawing our attention to Section 302 of the IPC, he contended that the life imprisonment could not have been qualified by the Trial Court; that it is only for a constitutional Court such as the High Court or this Court

which could qualify a life sentence having regard to the facts and circumstances of the case. Learned counsel further submitted that the sentence imposed by the Trial Court would also deprive the appellant from claiming remission which is not only a constitutional right but also a statutory right. Hence, that portion of the judgment of the Trial Court imposing a life imprisonment which would mean "till the death of the appellant" may be modified and the imprisonment could be life imprisonment simpliciter.

6. *Per contra*, learned Deputy Advocate General appearing for the respondent-State supported the judgment of the High Court which has sustained the judgment of the Trial Court imposing such a sentence. He contended that although the Trial Court may not have imposed such a sentence, when the High Court has affirmed it, as a constitutional Court such a sentence could be imposed by the High Court. He, therefore, submitted that there is no merit in this appeal.

7. We have considered the arguments advanced at the bar. At the outset, we extract Section 302 of the IPC which reads as under:

"302. Punishment for murder.— Whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine."

8. The nature of punishment for an offence under Section 300 is life imprisonment and fine. The said sentence is not qualified either in terms of the number of years or in any other manner. Life imprisonment which is imposed by the Trial Court in the instant case is at the discretion of the Trial Court as Section 302 also imposes a death penalty. The Trial Court in the instant case has not exercised its discretion to impose the death penalty but on the other hand has imposed life imprisonment and fine as a sentence. However, the qualification of the "life imprisonment" with "till death of the accused" is not warranted in terms of the Section 302 of the IPC.

9. We find that with the passage of time, the High Court as well as this Court while substituting a death penalty with sentence of life imprisonment has exercised discretion depending upon the facts and circumstances of each case by qualifying the sentence of life imprisonment to mean a certain number of years without remission. In other words, instead of imposing death penalty, the High

Court or this Court directs that the accused-convict must complete a certain number of years before he can seek release. Such sentences are imposed by the constitutional Courts such as the High Court or this Court. But in the instant case, we find that the Trial Court has qualified the sentence of life imprisonment to mean "till the death of the accused". As a result, the appellant-accused now convict cannot have an opportunity to seek remission of his sentence which is permissible both under Article 72 as well as Article 163 of the Constitution of India as a constitutional remedy by making an appropriate application either before the President of India or the Governor of the State respectively. Be that as it may, such an appellant here would also not have the statutory right to seek remission by making an application under Section 432 read with relevant provisions of the Code of Criminal Procedure, 1973. Therefore, according to learned counsel for the appellant, the right of the appellant to seek remission in the phase of a sentence of life imprisonment has been totally negated by holding that the life imprisonment would mean till the death of the accused.

10. Learned counsel for the appellant also contended that this aspect of the matter has not been noticed by the high Court while affirming the judgment of conviction and sentence. He, therefore, submitted that sentence imposed by the Trial Court, namely, life imprisonment, till the death of the accused, may be modified to mean life imprisonment simpliciter.

11. On the other hand, learned Deputy Advocate General submitted that the affirmation of the said sentence would mean that the constitutional Court, namely, the High Court has taken note of the same and hence, the said sentence need not be interfered with by this Court particularly having regard to the multiple murders in the same incident of the wife and two innocent children (daughter and son) and gravity and seriousness of the offences.

12. In Swamy Shraddananda (2) vs. State of Karnataka, (2008) 13 SCC 767, a three-judge bench of this Court found it necessary to make a special category for the very few cases where the death penalty might be substituted by the punishment of imprisonment for life or imprisonment for a term in excess of fourteen years and to put that category beyond the application of remission.

13. Thereafter, the Constitution Bench of this Court in Union of India vs. V. Sriharan, (2016) 7 SCC 1 ("Sriharan"), considered, *inter alia*, the question, whether a special category of sentence instead of death for a term exceeding fourteen years can be made by putting that category beyond grant of remission?

14. This Court in Sukhdev Yadav @ Pehalwan vs. State of (NCT of Delhi) & Others, (2025) 7 S.C.R. 2012, while considering the question of whether a convict who has completed his life imprisonment for a fixed term of sentence without remission, is entitled to be released from prison on completion of such a sentence. While considering the same, one of us (Nagarathna, J.) interpreted the decision of Sriharan in the following terms:

"10.6 After referring in detail to the judgement of *Swamy Shraddananda 2*, it was observed that when by way of a judicial decision, after a detailed analysis, having regard to the proportionality of the crime committed, it is decided that the offender deserves to be punished with the sentence of life imprisonment i.e. till end of his life or for a specific period of twenty years, thirty years or forty years, such a conclusion should survive without any interruption. In such an event, it can be stated that such punishment imposed will have no remission or other such liberal approach should not come into effect to nullify such imposition.

Accepting the submission of learned Solicitor General that there is no restriction to fix any period beyond fourteen years and up to the end of one's life span, it was stated that the Court can sentence the accused to undergo imprisonment for a specified period even beyond fourteen years without any scope for remission. The Court can direct that such offender is not to be released early and be kept in confinement for a longer period by imposition of an appropriate sentence".

10.7 Moving further it was observed that nowhere under the IPC is there any prohibition that the imprisonment cannot be imposed for any specific period within the lifespan. Thus, when life imprisonment is imposed, the Court can specify the period up to which the said sentence of life should remain, befitting the nature of the crime committed, when the Court's conscience does not persuade the death penalty. Therefore, the dictum in *Swamy Shraddananda (2)* was approved by this Court by observing that within the prescribed limit of life imprisonment, imprisonment for a specified period would be a proportionate punishment having regard to the nature of the crime as well as the interest of the victim.

10.8 Therefore, the law-makers have thought it fit to prescribe the minimum and maximum sentence to be imposed having regard to the nature of crime and have left it to the Courts to determine the kind of punishments that have to be imposed within the prescribed limit under the relevant provision. In other words, while the maximum extent of punishment of either death or life imprisonment is provided for under the relevant provisions, it will be for the Courts to decide if, in its opinion, the imposition of death may not be warranted, what should be the number of years of imprisonment that would be judiciously and judicially more appropriate. This is by taking into account, apart from the crime itself, the interest of the society at large and other relevant factors which cannot be put in any straight jacket formula. The said process of

determination must be held to be available with the courts by virtue of extent of the punishments provided for such specified nature of crimes and such power is also to be derived from those penal provisions themselves."

15. Sriharan itself concluded on this point in the following terms:

"105. We, therefore, reiterate that the power derived from the Penal Code for any modified punishment within the punishment provided for in the Penal Code for such specified offences can only be exercised by the High Court and in the event of further appeal only by the Supreme Court and not by any other court in this country. To put it differently, the power to impose a modified punishment providing for any specific term of incarceration or till the end of the convict's life as an alternate to death penalty, can be exercised only by the High Court and the Supreme Court and not by any other inferior court."

16. This position was reaffirmed in Shiva Kumar vs. State of Karnataka, (2023) 9 SCC 817 ("Shiva Kumar"), wherein this Court clarified that the observations of the Constitution Bench in Sriharan could not be read narrowly. Oka, J. held as under:

"14. Hence, we have no manner of doubt that even in a case where capital punishment is not imposed or is not proposed, the constitutional courts can always exercise the power of imposing a modified or fixed-term sentence by directing that a life sentence, as contemplated by "secondly" in Section 53 IPC, shall be of a fixed period of more than fourteen years, for example, of twenty

years, thirty years and so on. The fixed punishment cannot be for a period less than 14 years in view of the mandate of Section 433-A CrPC."

17. Applying this principle, this Court in Shiva Kumar, modified the sentence imposed by the Fast Track Court (Sessions Court) on the appellant therein to undergo rigorous imprisonment for rest of his life for an offence punishable under Section 302 of the IPC to undergo thirty years of actual sentence and to be released thereafter. The appeal was partly allowed to the above extent.

18. The limits of this power were subsequently considered in Kiran vs. the State of Karnataka, (2025) 12 S.C.R. 1069, wherein this Court considered the issue whether, the Sessions Court was competent to award a sentence of imprisonment for life till the remainder of life. There, the accused had set the deceased ablaze by pouring kerosene over her, as a result of which, the deceased sustained burns and succumbed to the same ten days later. The Trial Court convicted the accused and sentenced him to life imprisonment operating till the end of his natural life. This Court, by order dated 08.11.2024, issued notice limited to the question of whether the Trial Court was

correct in imposing the lifetime imprisonment on those terms. Answering in the negative K. Vinod Chandran, J. held as under:

"9. The sentence of life imprisonment no doubt means the entire life, subject only to the remission and commutation provided under Cr. PC and also to Articles 72 and 161 of the Constitution of India, which cannot be curtailed by a Sessions Court. Nor can the Sessions Court, a creation of the Cr. PC curtail the provision under Section 428, Cr. PC, available in the Code which created it.

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15. Going by the decisions cited, it has to be held that life imprisonment awarded would be for the rest of the life, the power to grant remission and commutation under Sections 432 to 435 Cr. PC cannot be curtailed by the Sessions Court, when the remission as provided under the Constitution was declared to be not permissible of interference by the Constitutional Courts. The power of alternate sentencing to cover the hiatus between 14 years and death, cannot be applied by the Sessions Courts. Hence, the sentence of life imprisonment cannot be directed to be till the end of natural life, by the Sessions Court which direction would be in conflict with the provisions of the Cr. PC. The power of remission or commutation conferred on the State cannot be taken away and the sentence as awarded by the trial court and confirmed by the High Court for the offence under Section 302 of the Indian Penal Code, 1860 is confirmed as imprisonment for life."

19. We have perused the judgment of the High Court in light of aforesaid dicta and we find that there has been

no discussion on the nature of the sentence imposed by the Trial Court on the appellant herein.

20. In the circumstances, we find that having regard to the gravity of the offences alleged against the appellant herein, we modify the sentence imposed on the appellant from life imprisonment to mean "till the death of the accused" to "life imprisonment, that is to say, twenty years without any remission".

21. The appeal is allowed in part in the aforesaid terms.

22. Consequently, the impugned judgment of the High Court as well as judgment of the Trial Court stand modified to the aforesaid extent only.

23. Pending application(s), if any, shall stand disposed of.

.....J.
(B.V. NAGARATHNA)

.....J.
(AUGUSTINE GEORGE MASIH)

NEW DELHI;
SEPTEMBER 18, 2026.

ITEM NO.35

COURT NO.2

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Crl.) No(s).
13632/2025

[Arising out of impugned final judgment and order dated
19-03-2025 in CRA No. 706/2021 passed by the High Court of
Chhattisgarh at Bilaspur]

AMJAD KHAN

Petitioner(s)

VERSUS

STATE OF CHHATTISGARH

Respondent(s)

(IA No. 199406/2025 - EXEMPTION FROM FILING C/C OF THE
IMPUGNED JUDGMENT

IA No. 199405/2025 - EXEMPTION FROM FILING O.T.)

Date : 18-09-2026 This matter was called on for hearing
today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s) : Dr. Nirmal Chopra, AOR

For Respondent(s) Mr. Vikrant Singh Bais, D.A.G.
Mr. Vinayak Sharma, Adv.
Mr. Kshitiz Aggarwal, Adv.
Mr. Yashvardhan Shah, Adv.
Mr. Ravinder Kumar Yadav, AOR

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

1. Leave granted.
2. The Criminal appeal is allowed in part in terms
of the signed order.

3. Pending application(s), if any, shall stand
disposed of.

(RADHA SHARMA)

ASTT. REGISTRAR-cum-PS

(DIVYA BABBAR)

COURT MASTER (NSH)

(Signed order is placed on the file)