2024 INSC 779

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. of 2024
(ARISING OUT OF THE SPECIAL LEAVE PETITION (CRIMINAL) NO.251 OF 2020)

EKNATH KISAN KUMBHARKAR …APPELLANT(S)

VERSUS

STATE OF MAHARASHTRA …RESPONDENT(S)

J U D G M E N T

Aravind Kumar, J.

1. Leave granted.

2. The sole accused who is the appellant before us was charged for murdering his pregnant daughter and being dissatisfied with the judgement dated 06/08/2019 passed by the High Court of Judicature at Bombay in Confirmation Case No.3 of 2017, by which the High Court confirmed the judgement and order of death sentence awarded by the Trial Court for the offences punishable under Section 302, Section 316 (10 years rigorous

imprisonment and fine of Rs.5,000/-) and Section 364 (life imprisonment) of the Indian Penal Code, 1860, the present appeal has been preferred.

BRIEF FACTS

3. As per the case of the prosecution, the deceased Pramila was the daughter of appellant/accused and PW1/Smt. Aruna Kumbharkar and she is said to have married Mr. Deepak Kamble in the year 2013 against the wishes of her father and it was an inter-caste marriage. On 28/06/2013 at 5:30 AM, the appellant is said to have left his house and travelled in the auto rickshaw of PW2/Complainant/Pramod Ahire by informing him that his brother Navnath had met with an accident and requested PW2 to go to Kailash Nagar, Nandurnaka. Appellant is said to have informed PW2 on the way that there was no incident of accident of his brother, however, his mother was serious, and her last wish was to see her granddaughter Ms. Pramila. Hence, they proceeded to the house of Pramila and, appellant is said to have informed Pramila’s mother-in-law/Sangita Kamble/PW3 that the health of his mother had deteriorated and she was in serious condition and she was longing to meet Pramila. PW3 is said to have informed the appellant that Pramila was nine months pregnant and that she had an appointment with the Doctor at 11:00 AM. However, the appellant is said to have promised to get Pramila back by 10:00 AM and accordingly appellant and PW2 took her in the autorickshaw to Savkar Hospital. When they reached near the hospital,

the appellant told the PW2/Complainant that his maternal uncle is working in Savkar Hospital as a watchman and instructed PW2 to secure him. Accordingly, PW2 entered inside the hospital and called him and there was no response and after some time it was intimated by the ward boy of the hospital that watchman whom the PW2 was searching was not working there. Thereafter PW2 returned towards his auto rickshaw and at that point of time he saw, Pramila lying down on the lap of the appellant in the auto rickshaw and her neck was being strangulated by a rope in the hand of the appellant and he found foam was oozing out from her mouth. PW2 rushed towards the autorickshaw and questioned the appellant and was informed that he was not concerned with the consequence as she had spoiled his reputation. PW2 started screaming and people from nearby area came near the autorickshaw but did not lend any helping hand. Thereafter PW2 dragged the appellant out of autorickshaw. PW2 is said to have attempted to save Pramila by dragging the appellant away from her and at that point of time appellant is said to have ran away from the spot. PW2 immediately took her to Savkar Hospital and the doctor informed him to take her to civil hospital as it was a police case. Hence, PW2 immediately took her to civil hospital where the doctor declared Pramila as dead. Subsequently, PW2 lodged a police complaint and on the basis of the same, police registered an FIR in CR No.159/2013.

4. After due investigation, the charge-sheet came to be filed against appellant under Sections 302, 316 and 364 of IPC. The case was committed to the Court of Session. The Trial Court framed charges against the appellant for offences punishable under Section 302, 316 and 364 of IPC and after pleading not guilty, he came to be tried for the aforesaid offences.

5. To prove the charges against the accused, the prosecution examined 10 witnesses. After closure of evidence of the prosecution, further statement of the accused under Section 313 CrPC was recorded. The case of the accused was of a total denial. He deposed that on account of previous monetary transactions between him and PW2, there was a dispute between them and he has been falsely implicated in the case. Appellant did not examine any witness in support of his defence. The Trial Court after appreciation of the facts and evidence on record, convicted the appellant for the offences punishable under Sections 302, 316 and 364 of IPC and sentenced him as noted hereinabove. The reference made by the Trial Court was numbered as Confirmation Case No.3/2017 before the High Court.

6. By the impugned judgement and order, the High Court affirmed the reference made by the Trial Court and confirmed the death penalty and sentences awarded by the Trial Court under Sections 302, 316 and 364 IPC. Feeling aggrieved by the impugned judgement and order passed by the High

Court in confirming the reference made by the Trial Court, the appellant has preferred the present appeal.

SUBMISSIONS

7. Learned Senior Counsel, Dr. Aditya Sondhi appearing on behalf of the appellant has vehemently submitted that in the facts and circumstances of the case, both the Trial Court and the High Court have erred in convicting the appellant for the offences punishable under Sections 302, 316 and 364 IPC.

7.1 It is further submitted that the motive for killing the deceased is not proved. It is submitted that the PW1's statement that appellant was angry with the deceased Pramila as she got married out of caste, is a vague statement and without basis. It is further submitted that appellant did not have any anger towards the deceased and same was evident, as he and deceased used to visit each other's house and the same is confirmed by PW1 and PW3. It is further submitted that deceased was married for over a year and it is unexplained by the prosecution as to why the appellant would wait for a year to commit the offence and that too in a public place. The learned counsel relied on the judgments of this Court in ***Balaji v State of***

Maharashtra[1], ***Dandu Jaggaraju v State of A.P.***[2] to contend that motive was not established as the accused knew of the inter caste marriage for long.

7.2 It is further submitted that the eyewitness PW2 is not reliable. It is submitted that PW2 had raised a loan by mortgaging appellant's second-hand motorcycle and that appellant and PW2 had heated exchange regarding the monetary transaction 15 days prior to the incident.

7.3 It is submitted that non examination of the wife of PW2 is fatal to the story of prosecution, as presence of appellant in the house of PW2 and appellant having left PW2's autorickshaw along with him raises a serious doubt. It is submitted that the appellant's visit to the deceased house is also not proved.

7.4 It is further submitted that there are material contradictions in the testimonies of PW1 and PW3 regarding the events that occurred on 28/06/2013, which casts a serious doubt on the reliability of these two witnesses.

7.5 It is further submitted that adverse inference has to be drawn against the prosecution for non-examination of material and independent witnesses, Narayan Ramrao i.e. owner of the tea stall located near the scene of incident;

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1 (2019) 15 SCC 575

2 (2011) 14 SCC 674

Prakash Pawar and Jitendra Chaugule i.e. persons residing near Savkar Hospital and Babu Patil (ward boy of Savkar Hospital), despite their statements being recorded by Rajesh Arkhade/investigating officer/PW10.

7.6 It is submitted that even those persons who came to the spot after PW2 shouted for help, are also not examined by the prosecution. The learned counsel relied on the judgments in ***Jaikam Khan v. State of UP***[3], ***Jagadish v. State of Haryana***[4], ***Hem Raj v. State of Haryana***[5] to contend that non-examination of independent witness by the prosecution is a serious infirmity and is fatal to the case of the prosecution.

7.7 It is submitted that evidence of Dr. Vikrant Savkar/PW5 is not trustworthy and reliable, and there are material contradictions in the testimonies of PW2 and PW5 regarding the events that occurred at the hospital.

7.8 It is further submitted that seizure and sealing of the string which is said to have been used by the accused to strangulate the deceased is not proved and there are discrepancies regarding the length of the same. It is submitted that it is not the case of the prosecution that string is linked and it was not seized from or at the behest of the appellant and it is also not the

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3 (2021) 13 SCC 716

4 (2019) 7 SCC 711

5 (2005) 10 SCC 614

case of prosecution that said string could have caused the ligature mark found around the neck of the deceased.

7.9 It is further submitted that the cause of injury nos.2 to 4 i.e. curvilinear scratches on the deceased's face and nose bridge is not proved by the prosecution.

7.10 It is submitted that multiple investigative errors are committed by the prosecution which casts a serious doubt on the entire prosecution case.

7.11 In the background of aforesaid submissions, learned counsel has prayed for appeal being allowed and appellant being acquitted for the offences for which he was tried. In the alternative, it is prayed to convert the death sentence into life imprisonment, by contending that both Courts have failed to consider the mitigating circumstances in proper perspective.

8. On the contrary, learned counsel appearing for the Respondent, Mr. Siddharth Dharmadhikari would support the case of the prosecution and contend that both the courts on proper evaluation of evidence have rightly arrived at a conclusion that appellant had committed the offences alleged and both the courts have rightly awarded the death sentence.

8.1 It is submitted that impugned judgement and order of the High Court is well reasoned and has been passed after considering the entire facts and

circumstances and same is not to be interfered with by this Court in exercise of jurisdiction vested under Article 136 of the Constitution of India.

8.2 It is submitted that the prosecution has been successful in proving the motive of the accused to take revenge and kill his daughter for having married outside the caste as clearly spoken to by the wife of the accused namely PW-1.

8.3 It is further submitted that the prosecution has been successful in establishing and proving that the deceased went with the appellant at his instance and that the appellant was seen strangulating her neck with rope/string and subsequently fleeing from the spot on being confronted by PW2. All these circumstances will singularly point towards the guilt of the accused and does not give scope for raising any doubt.

8.4 It is further submitted that death of deceased Pramila was homicidal death, which has been established and proved by examining the doctors who conducted the post-mortem.

8.5 It is also submitted that this is a fit case to award death sentence and the case would fall into the "rarest of the rare case". It is further submitted that the balance of mitigating and aggravating circumstances would not lie in favour of the appellant and he has committed a heinous crime by killing his own daughter who was in advanced pregnancy stage in a merciless manner. Therefore, it is prayed to dismiss the present appeal and confirm the death sentence awarded by the High Court.

9. Heard the learned counsel appearing for the respective parties at length. We have also gone through in detail the judgement and order passed by the Trial Court and High Court.

DISCUSSION AND FINDING

10. After considering the rival contentions and on perusal of the evidence tendered by the prosecution in general and in particular the depositions of PW-1, PW-2 and PW-3 it would clearly emerge that wife of the appellant (PW-1) has spoken in no uncertain terms that her husband was nursing grudge against their daughter namely the deceased Ms. Pramila for having married a person from a lower caste and thereby it had tarnished his image in the society. She has further deposed that appellant used to feel that the community people of his caste had not accepted him, and he was being defamed in the society because of his daughter's inter-caste marriage. She further states, though appellant used to visit the house of Pramila, he had grouse against Pramila for having married out of their caste. She has further deposed that appellant strangulated Pramila with the string of her petticoat which he had carried and same was handed over by her to the police. PW-2, who is the complainant has reiterated his statement made under section 161 Cr.P.C. before the police. He has deposed in extenso, the manner, the method, the mode in which appellant had perforced him to proceed towards the house of the brother of the appellant initially and in the mid-way had

changed his version namely, mother being serious and she intended to see her grand daughter i.e., deceased. He has also deposed that deceased was picked up from her marital home after informing the mother-in-law of the deceased and assuring her to be brought back before 10 AM in order to enable her visit to the Doctor who was attending to Ms. Pramila for pregnancy related tests. PW-2 has also narrated the manner in which he was made to believe the words of the appellant and was coaxed to fetch the watchman of Savkar Hospital. He has clearly deposed by the time he returned he had seen as to how Ms. Pramila was lying on the lap of the appellant who had strangulated her resulting in foam oozing out of her mouth and as a result he had shouted at the appellant which resulted in drawing the attention of the neighbours and help was sought from the public. Appellant is said to have escaped from the scene of occurrence leaving the deceased in the auto and she was rushed to Savkar Hospital initially and later shifted to the civil hospital, where she was pronounced dead.

11. The testimony of PW1 and PW2 fortifies the case of the prosecution the motive of the appellant for commission of the crime. There was no reason for PW1 to depose falsely against her husband and it is also not the case of the appellant that his wife had any enmity towards him and she has falsely deposed against him. The evidence of PW1 is not shaken in the cross

examination. As such the contention of the appellant that motive for commission of crime is not proved by the appellant is liable to be rejected.

12. It is an established principle of law that conviction can be based on the testimony of a sole eyewitness. This Court in the case of ***Vadivelu Thevar and another Vs. State of Madras***[6] has held that the court can act on the testimony of a single witness though uncorroborated. Unless corroboration is insisted upon by a statute, courts should not insist on corroboration except in cases where the nature of the testimony of the single witness itself requires as a rule of prudence that corroboration should be insisted upon. Whether corroboration of the testimony of a single witness is or is not necessary, would depend upon facts and circumstances of each case and depends upon the judicial discretion. In other words, this Court has held that court would be considered with the quality and not the quantity of the evidence necessary for proving or not proving a fact.

13. Keeping the aforesaid principles in mind when we turn our attention to the testimony of eyewitness relied upon by the prosecution PW-2, it clearly fortifies the case of the prosecution. We find no reason to doubt the testimony of PW-2 as nothing worthwhile has been elicited in the cross-

[6] AIR 1957 SC 614

examination to discredit his testimony or in other words it can be safely concluded that the testimony of PW-2 has stood the scrutiny.

14. The thrust of the arguments canvassed on behalf of the appellant is to the effect that non-examination of the owner of the tea stall located near the scene of crime; non-examination of the ward boy of Savkar hospital; non-examination of independent witnesses who had assembled near the scene of crime on hue and cry being raised by PW-2; was fatal to the prosecution case. Though at first blush, said arguments looks attractive, on deeper examination it has to be answered against the appellant as it is settled principle of law that non-examination of independent witnesses by itself would not give rise to adverse inference against the prosecution. It would only assume importance when the evidence of eyewitness raises a serious doubt about their presence at the time of actual occurrence.[7]

15. Yet another plea was raised that due to financial dispute between appellant and PW-2, he (PW-2) had falsely implicated the appellant. During course of examination, it was suggested to PW2 that there was some dispute between him and the appellant on account of monetary transaction. Though PW2 accepted that he had demanded a hand loan from the accused, he has denied that appellant had mortgaged his bike with the friend of PW2 and has

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[7] Guru Dutt Pathak v. State of Uttar Pradesh, (2021) 6 SCC 116

also denied the receipt of hand loan from the appellant. Section 103 of the Evidence Act, mandates that burden of proof as to any particular fact lies on that person who wishes the court to believe its existence. As such, burden was on the appellant to tender evidence for the purpose of proving the alleged financial transaction. Apart from making a bald statement in his statement recorded under Section 313 of Cr.P.C., no efforts have been made by the appellant to either examine the friend of PW2 as a witness or tender any documentary evidence to prove the so called financial transaction. Hence, the plea of the appellant regarding alleged financial transaction with PW2 is not established.

16. The evidence of PW3/Sangita Dashrath Kamble/Mother-in-law of the deceased would also strengthen the case of the prosecution. The testimony of PW3 is to the effect that appellant had visited her house on the date of incident around 7:00 AM to 7:30 AM and informed her that his mother was ill and she intended to see Pramila and as such he intended to take her with him. On being informed by PW3 that Pramila was 9 months pregnant and she needs to be taken to hospital at 11AM, appellant had assured to bring back Pramila at about 10AM. She has deposed that when Pramila did not return at 10:00 AM, she had asked her son Deepak to call his mother-in-law (PW-1) and on enquiry PW1 had questioned them as to why they had sent Pramila with her husband i.e. appellant. She is said to

have received information to visit Civil Hospital, accordingly, they all went to Civil Hospital and saw the dead body of Pramila.

17. The testimony of PW3 corroborates with the testimony of PW2 on the aspect of the appellant visiting the house of deceased Pramila on the date of incident and taking her with him on the pretext, that his mother i.e. grandmother of Pramila was not keeping well and that she was desirous to see Pramila.

18. After considering the evidence of PW1, PW2 and PW3 it is clear that appellant with the motive of killing his daughter had visited her matrimonial home along with PW2 and has taken her in an auto rickshaw on the pretext of visiting his mother and had strangulated her. The appellant is said to have asked PW2 to stop the auto near Savkar hospital and asked him to search for the watchman. By the time PW2 was back, the appellant was strangulating Pramila by means of a rope or string. The chain of events establish the guilt of the appellant beyond reasonable doubt and there are no other circumstances to disbelieve the theory of the prosecution.

19. The case of the prosecution is further fortified by the testimony of PW6/Sri. Anand Vilas Pawar who performed the autopsy of Pramila. The testimony of PW6 is that death had occurred due to asphyxia consequent upon ligature strangulation via ligature mark and same is antemortem and

sufficient in ordinary course of nature to cause death. It was further deposed that death of the child in the womb of the mother was caused due to the death of the mother. He has further deposed that Injury No.1 was possible by the string (Article-B) seized by Police and the said string was identified by PW2 and PW6.

20. The appellant has drawn the attention of this court to some minor discrepancies in the evidence some of the prosecution witnesses. This Court in the case of ***Rohtash Kumar v State of Haryana***[8] has held that undue importance should not be given to minor omissions, contradictions and discrepancies which do not go to the heart of the matter and shake the basic version of the prosecution.

21. This Court in the case of ***Manoj Suryavanshi v State of Chhattisgarh***[9] has held there are bound to be some discrepancies between the narration of different witnesses, when they speak on details, and unless the contradictions are of a material dimension, the same should not be used to jettison the evidence in its entirety. It is further observed that corroboration of evidence with mathematical niceties cannot be expected in criminal cases. Minor embellishment, there may be, but variations by reason therefore should not render the evidence unbelievable. Trivial discrepancies ought not

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[8] (2013) 14 SCC 434
[9] (2020) 4 SCC 451

to obliterate an otherwise acceptable evidence. As such the contention of the appellant raised in this regard is liable to be rejected and accordingly it is rejected.

22. For the reasons aforestated, we are of the opinion that High Court has not committed any error in upholding the conviction of the accused for the offences punishable under Sections 302, 316 and 364 IPC and we are in complete agreement with the view taken by the Trial Court and the High Court in that regard.

23. The next question or incidental question that arises for our consideration is: Whether in the facts and circumstances of the case, the capital punishment imposed on appellant by the Trial Court and confirmed by the High Court deserves to be maintained or not?

24. This Court in the case of ***Madan v State of Uttar Pradesh***[10] has summarised the principles regarding the imposition of death penalty as punishment. It has been held after noticing the Constitution Bench case of ***Bachan Singh v State of Punjab***[11]**,** that normal rule is that the offence of murder shall be punished with sentence of life imprisonment and the court can depart from that rule and impose the sentence of death only if there are special reasons for doing so and reasons are required to be recorded in

[10] 2023 SCC Online SC 1473
[11] (1980) 2SCC 684

writing before imposing the death sentence. It has been further held that the guidelines indicated in Bachan Singh's case will have to be applied to the facts of each individual case where the question of imposing of death sentence arises and after noticing the propositions emerging from the Bachan Singh's case, it has been held that if it shocks the collective conscious of the society and fall in the category of 'rarest of rare cases', the imposition of death penalty may be warranted. As to whether the facts and circumstances of the case, warrants imposition of death penalty or not cannot be applied in any straight jacket formula and it would be on facts and circumstances unravelled in each case. It depends upon the terrain of facts and circumstances it may have travelled and takes its colour from the same or in other words with mathematical precision it cannot be moulded.

25. Hence, the question which arises for our consideration in the instant case is whether the present case would fall in the category of "rarest of rare case" so as to confirm the death penalty or the sentence can be commuted?

26. This Court vide order dated 25/04/2023 had called for a Prison Conduct Report, Probation Officer's Report of accused, Psychological Evaluation Report of Accused and Mitigation Investigation Report.

27. As per prison conduct report dated 06/07/2023 forwarded by Superintendent, District Jail, Yervada, it is opined that appellant is aged 47

years and his conduct and behaviour is satisfactory with other inmates and prison staff. Same is the report of the probation officers dated 28/06/2023 and they further state that appellant is not involved in any criminal activity in jail for the past 6 years and his behaviour with jail staff and inmates is satisfactory.

28. As per the Mitigation Investigation Report forwarded by Ms. Neha Kangralkar dated 25/04/2023 titled ‘Mitigation Investigation Report for Eknath Kisan Kumbharkar’, the following mitigation circumstances are identified.

i. **Time spent in prison:** Appellant has spent about 11 years behind bars.
ii. **Absence of criminal antecedents**
iii. **Socio-economic background:** Appellant comes from a poor nomadic community in Maharashtra. He had an alcoholic father, and was forced to start working since the age of 5 to support his family, doing odd jobs such as cattle rearing and selling milk. After his marriage, he tried different jobs including driving an auto.
iv. **Adverse childhood experiences:** Appellant suffered from parental neglect due to poverty and it was primarily his elder sisters who brought him up. He grew up witnessing his alcoholic father’s physical and verbal abuse, and dropped out of school when he was 10 years old and had to enter the workforce at an early age.
v. **Efforts to bring family out of poverty:** Appellant made constant efforts to bring his family out of poverty, including by borrowing money to buy autos to earn more. However, due to his poverty and debt, he was unable to keep the autos.
vi. **Mental and emotional disturbance:** Appellant was under immense pressure from his community due to the inter-caste marriage of the deceased as well as prior ostracization from their community due to a family

conflict. Further, the death of his son and subsequent substance dependence and pressures of poverty even prior to the incident may have already put him under mental and emotional disturbance.

vii. During the mitigation interviews, he displayed speech issues, as also confirmed by the state reports. He has experienced social isolation in Yerwada, since prisoners called him *yeda* (mad) after the stroke. As a possible coping mechanism, he spent his time engaging in conversations with Mata- an imaginary woman.

viii. **Post conviction mental Illness:** Appellant's permanent cognitive impairment will only worsen with age. His mental health concerns including speaking to 'Mata' and having a confused understanding of the death sentence and what it entails.

ix. During the early years of incarceration, Appellant engaged in multiple prison activities- learning English, doing art, and making bags."

29. The psychiatric assessment report dated 19/06/2023 submitted by Sasson General Hospital notes that the appellant has speech issues and significant cognitive impairment due to a stroke that he suffered from while in prison in 2021. The cardiological evaluation report from Sasson hospital records that the appellant had an angioplasty in 2014. He has ischemic heart disease, which requires continued medical management. The neurological evaluation notes that he has right sided hemiparesis due to his stroke in 2021 and left frontoparietal gliosis per CT brain done in 2023. He has persistent speech deficit due to the stroke, which will continue and require continuous medical management throughout his life.

30. We have scrutinized the aforesaid reports submitted to this court. We find that the present case would not fall in the category of "rarest of rare cases" wherein it can be held that imposition of death penalty is the only alternative. We are of the considered opinion that the present case would fall in the category of middle path as held by this court in various judgments of this court[12].

31. In the instant case, it is to be noted that appellant hails from a poor nomadic community in Maharashtra. He had an alcoholic father and suffered parental neglect and poverty. He dropped out of school when he was 10 years old and was forced to start working to support his family, doing odd jobs. All efforts put by the appellant to bring his family out of poverty did not yield desired results. Neither the appellant nor any of his family members have any criminal antecedent. It cannot be presumed that appellant is a hardened criminal who cannot be reformed. Hence, it cannot be said that there is no possibility of reformation, even though the appellant has committed a gruesome crime.

32. The appellant was aged about 38 years at the time of commission of the crime. He has no criminal antecedents and there are various other

[12] Swamy Shraddananda (2) v. State of Karnataka, (2008) 13 SCC 767; Shankar Kisanrao Khade v. State of Maharasthra, (2013) 5 SCC 546; Gandi Doddabasappa alias Gandhi Basavaraj v. State of Karnataka, (2017) 5 SCC 415; Prakash Dhawal Khairnar (Patil) v. State of Maharastra, (2002) 2 SCC 35, Mohinder Singh v. State of Punjab, (2013) 3 SCC 294; Madan v. State of Uttar Pradesh, 2023 SCC Online SC 1473

mitigating circumstances existing in his favour as per the reports which we have discussed above. The medical reports of the appellant would disclose that he has speech issues, and he has undergone an angioplasty in 2014, apart from suffering other serious ailments, as already noted herein above. The conduct report from the prison would disclose that the behaviour of the appellant in the jail is satisfactory with everyone for the past six years. Considering these factors, we are of the considered view that even though the crime committed by the appellant is unquestionably grave and unpardonable, it is not appropriate to affirm the death sentence that was awarded to him. The doctrine of "rarest of rare" requires that death sentence should not be imposed only by taking into consideration the grave nature of crime but only if there is no possibility of reformation by a criminal. Being conscious of the fact that sentence of life imprisonment is subject to remission, which would not be appropriate in view of the gruesome crime committed by the appellant, the course of middle path requires to be adopted in the instant case. In that view of the matter, we find that the death penalty needs to be converted to a fixed sentence during which period the appellant would not be entitled to apply for remission.

33. The appeal is therefore, partly allowed. The order of conviction as recorded by the Trial Court and confirmed by the High Court of Judicature at Bombay vide order dated 06/08/2019 in Confirmation Case No.3/2017 is

affirmed. However, the sentence of death penalty imposed by the courts below under Section 302 is converted to 20 years of rigorous imprisonment without remission. It is made clear that appellant-accused shall not be entitled to make any representation for remission till he completes 20 years of actual rigorous imprisonment.

34. The appeal is allowed to the extent noted herein above. Pending application(s), if any, stands consigned to records.

……..………………….J.
(B.R. Gavai)

……..………………….J.
(Aravind Kumar)

……..………………….J.
(K.V. Viswanathan)

New Delhi,
October 16, 2024