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Revisiting Death Sentence: A Manipur Experience

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Abstract

This paper delves into the sentencing trend of trial courts in capital offences in the country. There are demands that the death sentence be awarded to all horrendous, barbaric, and heinous crimes, especially those that involve kidnapping, rape, and cold-blooded murder of tender age children and helpless women. Since the landmark case of Bachan Singh, the judicial trend is that life imprisonment is the rule, the death penalty is the exception, only to be awarded in the rarest of the rare cases when the alternative option is unquestionably foreclosed. The trial courts in the country are required to satisfy that the state prosecution shall, by evidence, prove the convict cannot be reformed or rehabilitated and thus constitutes a continuing threat to society. In this piece, the authors examine the judgment of a trial court in the state of Manipur, which awarded the death sentence in a murder case. We argue that the case does not fit to be categorised as a rare case.

Key Words: *capital offences, death sentence, life imprisonment, rarest of the rare.*

I. Introduction

A trial court in Madurai District, Tamil Nadu, has sentenced nine policemen to death on April 6, 2026, for custodial torture and the deaths of a father and son duo in 2020. Death sentences are not uncommon in India, though executions are¹. Of late, the call for awarding the death sentence to the offenders who have committed rape and murder of children and women is in the limelight in Manipur. In recent years, crimes against women have also been on the rise. It was reported that during the last three and a half years, around 951 cases of crime against women have been registered². These crimes are an affront to the human dignity of society. Various civil society organisations have demanded that the perpetrators of heinous crimes committed against children and women must be given befitting punishment. There are demands that the death sentence be awarded to all horrendous, barbaric, and heinous crimes, especially those that involve kidnapping, rape, and cold-blooded murder of tender age children. In recent times, the trial courts in Manipur have awarded the death penalty to three convicts. While the first case involved the rape and murder of a minor girl aged about 4 years, the other case related to the brutal murder of a woman aged about 26 years. The third case relates to the murder of a woman in a rural area of a valley district of the state. Incidentally, all three cases were tried by the same learned Sessions Judge, Senapati, as the Special Judge under the POCSO Act in the first case, and as the Sessions Judge in the second and third cases. In all three cases, the learned judge awarded a death sentence to the main perpetrators. This paper analyses the judgment of the second case³, and the present discussion is limited to the question of sentence, which the present authors feel that the case does not fit to be categorised as the rarest of rare cases. It also examines the sentencing trend prevalent in the country.

II. The Speediest Murder Trial

The case under study was claimed to be the speediest murder trial in the judicial history of the State, concluded within a period of 20 days. It was also reported that the charge sheet was submitted within one month. Altogether 28 prosecution witnesses were examined during the trial. After examining the evidence on record, the trial court convicted the main convict under

¹ The Square Circle Clinic, NALSAR University of Law, Death Penalty in India: Annual Statistics Report 2025 & 10 Years of Death Penalty Data (February 2026).

² Department of Law and Legislative Affairs, Government of Manipur, Notification dated 5 August 2020.

³ Sessions Trial No.1 of 2019, judgment pronounced on February 5, 2019.

sections 302 and 201 of the Indian Penal Code within a record time⁴. In the instant case, the trial court noted that “the victim being a young girl in her mid-20s could maintain the family and due to the brutal killing of the victim, the family members are now in turmoil, and there is no other way to compensate for the loss of life in the family. Such a ruthless murderer has no place in this civilised society.” It was also observed by the trial court that this is not only a betrayal of an individual trust but also the destruction and devastation of social trust. The court noted that since the convict has committed the offence of Sec 302 IPC, the most deterrent punishment should be awarded and he should be given capital punishment.

Further, the trial court observed that the convict lured a young girl (victim) and, on the pretext of loving her and eloping with her, he had mercilessly killed her like an animal by hitting her with a wooden stump and then strangulated by rope and while strangling, the convict muffled the mouth and nose of the victim with a towel. The judgment recorded: “Not only that, the convict again picked a pestle stone and hit her head and face several times. After the death of the victim, the gold ornaments, i.e. earrings and necklace, which were worn by the victim, were also removed by the convict and sold for an amount of Rs. 59, 000. After that, even without giving any due honour to the dead body, i.e. his own loved one, she was packed up inside gunny bags like an animal and thrown away into the Iril River and tried to conceal and hide all the evidence of the crime.”

The trial court observed: “When the crime is brutal, shocking to the conscience of the womanhood, sympathy would be misplaced and it would lose the confidence of society at large in the administration of the criminal justice system. And the court, while administering the criminal justice system, and in such a case, the court should respond to the cry of the society, and this incident made the entire society on its heels, and it is a burning incident which cannot be ignored. And the court should respond and settle what would be a deterrent punishment for what was apparently an abominable crime. And this case is categorised as ‘rarest of rare’ as the crimes committed by the convict are so inhuman, barbaric, and merciless, and their intention and motive were beyond the thoughts of a rational human being. Such cruelty and inhuman acts deserve to be wiped out, and there is no mitigating factor to deter from other alternative punishments.”

⁴ Sessions Trial No 1 of 2019 (Charge framed 16 January 2019; trial concluded 5 February 2019).

The trial judge, by conjecture, observed: “If he is made to live in this society, other innocent women will become his prey, and he will continue to destroy the dignity of women.” The judge, thus, concluded: “Considering the nature of the case, I am inclined that the type of such case will fall under the category of the rarest of rare and there is no mitigating factor to deter in any other alternative punishment. In my considered view, maximum punishment should be awarded, and it should be an eye opener for the society at large to prevent such brutal and heinous crime in our society.”

III. Rarest Of The Rare Case Doctrine

A Constitution Bench of the Supreme Court in *Bachan Singh v. State of Punjab*⁵, by a majority of 4 to 1, while upholding the constitutional validity of the death sentence, restricted its application to the ‘rarest of the rare’ cases only. The apex Court evolved the principle of life imprisonment as the ‘rule’ and death penalty as an ‘exception.’ It further mandated consideration of the probability of the criminal's reform or rehabilitation. The sentencing courts are required to consider the aggravating and mitigating circumstances of the offence and the offender when deciding the question of punishment. Courts must also discharge the burden of meaningfully considering whether the alternative of life imprisonment has been unquestionably foreclosed (emphasis is the authors'). This was further settled in the case of *Machhi Singh and others v. State of Punjab*⁶, wherein the Supreme Court held that as part of the ‘rarest of rare’ test, the courts should address itself as to whether: (i) there is something uncommon about the crime which renders sentence of imprisonment for life inadequate and calls for a death sentence; (ii) the circumstances are 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. Further, the Supreme Court held:

“(i) The extreme penalty of death need not be inflicted except in the 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

⁵ *Bachan Singh v State of Punjab* (1980) 2 SCC 684 (SC).

⁶ *Machhi Singh v State of Punjab* (1983) 3 SCC 470 (SC).

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 have 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.”

The Apex Court further ruled that to apply these guidelines, inter alia, the following questions may be asked and answered:

- (a) Is there something uncommon about the crime that renders a 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 a death sentence even after giving maximum weightage to the mitigating circumstances which speak in favour of the offender?

IV. Hybrid Special Category Sentence

There have been an umpteen number of judgments where the Supreme Court of India has steadily restricted the circumstances for award of the death penalty and has increased the burden of showing special reasons before awarding the death penalty, as mandated under Section 354(3) of the Code of Criminal Procedure. Many proponents of the abolition of the death penalty have been passionately urging the Supreme Court not to award death in cases of circumstantial proof, claiming an inherent weakness in cases without ocular evidence. These people contend that sentencing should be society-centric instead of being judge-centric and make use of a cost-benefit analysis to contend that the minuscule possibility of putting to death an innocent man is more than justified in the face of the alternative of endangering the lives of many more by setting a convict free after spending 14-20 years in prison. Ostensibly to tackle such a conundrum between awarding death or mere 14-20 years of imprisonment, a three-Judge Bench of the Supreme Court evolved a hybrid special category of sentence in the case of *Swamy Shraddananda @ Murali Manohar Mishra v. State of Karnataka*,⁷ and ruled that the Court could commute the death sentence and substitute it with life imprisonment with the direction

⁷ *Santosh Kumar Bariyar v State of Maharashtra* (2009) 6 SCC 498.

that the convict would not be released from prison for the rest of his life. After acknowledging that “the truth of the matter is that the question of the death penalty is not free from the subjective element and the confirmation of the death sentence or its commutation by the Supreme Court depends a good deal on the personal predilection of the Judges constituting the Bench,” the Court went on to hold as follows:

“The issue of sentencing has two aspects. A sentence may be excessive and unduly harsh, or it may be highly disproportionately inadequate. When an appellant comes to this Court carrying a death sentence awarded by the trial court and confirmed by the High Court, this Court may find that the case just falls short of the rarest of rare category and may feel somewhat reluctant in endorsing the death sentence. But at the same time, having regard to the nature of the crime, the Court may strongly feel that a sentence of life imprisonment subject to remission normally works out to a term of 14 years would be grossly disproportionate and inadequate. What then should the Court do? If the Court's option is limited only to two punishments, one a sentence of imprisonment, for all intents and purposes, of not more than 14 years and the other death, the Court may feel tempted and find itself nudged into endorsing the death penalty. Such a course would indeed be disastrous. A far more just, reasonable, and proper course would be to expand the options and to take over what, as a matter of fact, lawfully belongs to the Court, i.e. the vast hiatus between 14 years' imprisonment and death. It needs to be emphasised that the Court would take recourse to the expanded option primarily because, in the facts of the case, the sentence of 14 years' imprisonment would amount to no punishment at all. Further, the formalisation of a special category of sentence, though for an extremely small number of cases, shall have the great advantage of having the death penalty on the statute book, but to actually use it as little as possible, really in the rarest of rare cases...In the light of the discussions made above we are clearly of the view that there is a good and strong basis for the Court to substitute a death sentence by life imprisonment or by a term in excess of fourteen years and further to direct that the convict must not be released from the prison for the rest of his life or for the actual term as specified in the order, as the case may be.”

The special sentencing theory evolved in the *Swamy Shraddananda case*⁸ has got the seal of approval of the Constitution Bench of the Supreme Court in *Union of India v. Sriharan alias Murugan and other*⁹s, wherein it was observed:

“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 the death penalty, can be exercised only by the High Court and the Supreme Court and not by any other inferior court. On a detailed examination of precedents, it appears to us that it would be totally imprudent to lay down an absolute principle of law that no death sentence can be awarded in a case where conviction is based on circumstantial evidence. Further, in many cases of rape and murder of children, the victims, owing to their tender age, can put up no resistance. In such cases, there would likely be no ocular evidence. It cannot, therefore, be said that in every such case, notwithstanding that the prosecution has proved the case beyond a reasonable doubt, the Court must not award capital punishment for the mere reason that the offender has not been seen committing the crime by an eyewitness. Such a reasoning, if applied uniformly and mechanically, will have devastating effects on society, which is a dominant stakeholder in the administration of our criminal justice system.”

It is pertinent to mention herein that in *Mohd. Giasuddin v. State of AP*¹⁰, explaining rehabilitative & reformatory aspects in sentencing, it has been observed by the Supreme Court that "Crime is a pathological aberration. The criminal can ordinarily be redeemed, and the state must rehabilitate rather than avenge. The subculture that leads to antisocial behaviour must be countered not by undue cruelty but by re-culturization. Therefore, the focus of interest in penology in the individual and the goal is to salvage him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality, and the

⁸ Ibid.

⁹ *Shatrughan Chauhan v Union of India* (2014) 3 SCC 1.

¹⁰ *Rajendra Prasad v State of Uttar Pradesh* AIR 1979 SC 916.

modern community has a primary stake in the rehabilitation of the offender as a means of social defence. Hence, a therapeutic, rather than an 'in terrorem' outlook should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind. If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him, and men are not improved by injuries."

V. Conclusion

No doubt, the Sessions Trial No.1 of 2019 of the Sessions Court, Senapati can be considered as the speediest murder trial in the judicial history of the state. The learned judge, by conjecture, held that the convict posed a danger to society as well as to innocent women. The court, however, was silent on the criminal test, and the option of alternative punishment was not considered. It was also noticed that the convict had no premeditated plan to murder her, but on the spur of the moment, without any premeditation, he gave blows which caused the death. It was also found that the accused had no previous criminal record, and there was no mention of examination of any pre-sentence report by the court. Further, the convict was not represented by a senior lawyer, thereby depriving him of fair trial rights. The act was indeed heinous and required to be condemned, but the case could not be said to be one of the rarest of rare cases that justify the death penalty. The convict was 27 years old at the time of the commission of the crime, and the possibility of reformation could not be ruled out. No evidence could lead the court to conclude that he would be a danger to society in future. The State did not bring on record any evidence to show that the convict cannot be reformed and rehabilitated. From a holistic examination of the entire facts and circumstances of the case and the judicial trend in sentencing of capital offences followed in the country, it can be stated that the case did not fit into the sphere of the rarest of rare cases. The sentencing order of the trial court summarily dismissing mitigating factors needs an overhaul. To us, the sentence of death awarded to the convict is not appropriate. We must also remember that incapacitation of the offender to commit further offences is also a legitimate interest of the members of society. The fundamental purpose of imposing a sentence is based on the principle that the accused must realise that the crime committed by him has not only created a dent in the life of the victim but also a concavity in the social fabric. The purpose of just punishment is that society may not suffer again from such a crime. The judicial trend in the country has been towards striking a balance between reform and punishment. The protection of society and stamping out criminal proclivity must be the object of law, which can be achieved by imposing appropriate sentences

on criminals and wrongdoers. Law, as a tool to maintain order and peace, should effectively meet challenges confronting society, as society cannot long endure and develop under serious threats of crime and disharmony. It is therefore necessary to avoid undue leniency in the imposition of a sentence. Thus, the criminal justice jurisprudence adopted in the country is not retributive but reformatory and corrective. At the same time, undue harshness should also be avoided, keeping in view the reformatory approach underlying our criminal justice system. A savage sentence is an anathema to the civilised jurisprudence of Article 21 of the Constitution of India. The convict deserves to be incarcerated for life.

