2025 INSC 303

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.877-878 OF 2020

RAMESH A. NAIKA … APPELLANT(S)

VERSUS

THE REGISTRAR GENERAL, HIGH COURT OF KARNATAKA ETC. … RESPONDENT(S)

O R D E R

SANJAY KAROL, J.

1. A child's parents are their reason for existence and form an indispensable part of their lives, even more so, in the early years of life. Parents are expected to be loving, nurturing and sometimes disciplining guides in life. Abraham Lincoln is said to have said that "love is the chain whereby to bind a child to its

parents[1]". In the classical traditions of India, however, parents are placed on a higher pedestal, at an exalted position, as their word equals the word of God. While it is true that in modern times, we refrain from making such comparisons, nonetheless, it cannot be said that the irreplaceability, essentiality, importance, and desirousness of the love, affection, and stewardship of parents, has been watered down in any way. One is forced to wonder, in the facts of this case, how these cherished ideals could have been entirely absent.

THE APPEALS

2. These appeals challenge judgment dated 22nd September 2017, passed by the High Court of Karnataka at Bengaluru in Criminal Referred Case No.2 of 2014 and Criminal Appeal No.196 of 2014 confirming the conviction and death sentence awarded to the appellant under Section 366(1), Code of Criminal Procedure, 1973[2]. Also, by the accused seeking setting aside the conviction under Section 302 of the Indian Penal Code, 1860[3] and sentence of death, respectively imposed by judgment and order dated 26th November 2013 and 3rd December 2013 by the V Additional District and Sessions Judge, Dakshin Kannada,

[1] https://home.nps.gov/liho/learn/historyculture/alincolnbio.htm
[2] Hereafter 'Cr.P.C.'
[3] Hereafter 'I.P.C.'

Mangaluru sitting at Puttur[4] in Sessions Case No.28 of 2011.

FACTS

3. The facts, as can be understood from the record are that : The appellant-convict was a respectable member of society working as a Manager at the Solapur Branch of the Punjab National Bank. He was married to Smt. Sundari (PW-2) who was herself an employee of the State Bank of Mysore, Mangalore Branch. They had two children – 10-year-old Bhuvanraj and 3½-year-old Krithika[5]. It is alleged that the appellant-convict was dissatisfied with the behaviour and life choices of his sister-in-law, Ms. Savitha whom he had gotten a job at the Provident Fund office, who fell in love with her co-worker Mr. P. Mohan (PW-19) and wanted to pursue matrimonial life with him. Further, the appellant-accused first tried to get his wife to dissuade Ms. Savitha from going down her chosen path but was persuaded to refrain from interfering therein. Subsequently, while visiting Tumkur (residence of Ms. Savitha, and Mrs. Saraswathi, mother-in-law, and ancestral village of the appellant-accused) and Mangalore (where Smt. Sundari resided with the deceased children), from Solapur where he was posted, when this issue again came up, he once again found Smt. Sundari not to be

[4] Hereafter 'Trial Court'
[5] Hereafter 'deceased children'

supporting his stand. As such, to teach her and his sister-in-law a lesson, he decided to end the lives of the latter, his own children, Smt. Saraswathi, and then to get his wife to commit suicide.

In furtherance of this design, he killed, it is alleged by the prosecution, Ms. Savitha and Ms. Saraswathi at Tumkur Village, by dumping their bodies in the sump tank of his house there on 16th June 2010 and then came to Mangalore the next day. Here, having gotten in touch with PW-3, his nephew, he secured the locker keys from his wife, met PW-1, her brother, and gave him Rs.17,00,000/-. He then returned home and then, on the pretext of showing them around the city, took his children in the cab of PW-9, Firoze, to the gardens situated on the property of PW-7, Mr. Sathyanarayana Prasad, where he was seen arriving by Mr. Mahalinga Naika PW-4 and there drowned them in the tank. Having done so, he sent a message to his wife, informing her that the said persons were no longer in the land of the living, and she too should follow suit by ending her life in a well. Concerned by this, she informed her relatives, who advised approaching the authorities.

Eventually, with the assistance of various persons, the bodies of the deceased children were found in the water tank in the gardens of PW-7. PW-1 set the law in motion by registering the FIR in Crime No.56/2010 on 17th June, 2010. The appellant-convict was apprehended at Rama Lodge in Puttur. Chargesheet

was filed on 20th August, 2010. Here only it is clarified that the present appeals deals only with the murder of the two children and, in relation to the other deceased, the accused already stands tried separately.

PREVIOUS PROCEEDINGS

4. The prosecution examined 19 witnesses and exhibited 19 documents and 10 material objects in evidence. On behalf of the defence, no other evidence apart from the exhibition of one document, during the course of the cross-examination of PW-16, was led. The Trial Court framed five issues which are extracted hereinunder:

> "**1. Whether the prosecution is able to prove the homicidal death of the children of the accused Bhuvanraj and Krithika?**
>
> **2. Whether the prosecution is able to prove the motive against the accused?**
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> **3. Whether the prosecution is able to prove that, on 16-06-2010 in he afternoon the accused picked his children Bhuvanraj and Krithika from his house at Mangalore with a soleintention of committing their murder, brough them to Ardamoole of Panaje Village of Puttur Taluk drowned them in water tank situated in the areca garden of PW7 Mr. SatyanarayanaPrasad, resulting their death?**
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> **4. Whether the prosecution is able to prove the offence U/Sec.302 of IPC against the accused?**
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> **5. What Order or relief?"**

On the first issue, reliance is placed on the testimonies of PW1-Mr. P. Aithappa Naika, PW2-Smt. Sundari, PW3-Mr. Dayananda, PW4-Mr. Mahalinga Naika, PW5-Panch witness, PW6-Mr. Kripashankar, PW7-Mr. A.R. Sathyanarayana Prasad, PW8-Mr. Keshava Moorthy, PW9-Mr. P.S. Firoze, PW10-Mr. Ramesh K., PW11-Dr. Geethalaxmi, PW12-Dr. Deepak Rai. It is recorded that, while searching for the deceased children, PWs 1 to 3 and 9 arrived at Ardamole. They got in touch with PW-4 and, ultimately, along with PW-7, found the bodies floating in water.

PW-12, Dr. Deepak Rai, concluded that the death of the children was due to drowning in water. Such a conclusion was supported by the evidence of PW-11 Dr Geethalaxmi. It was further established by the evidence of PW-4 that the appellant-convict was originally a resident of Ardamole. These circumstances along with the consideration of his statement under Section 313 Cr.P.C., the homicidal death was proved.

4.1. The next question was that of motive. In determining the same, reference is made to the statements of Smt. Sundari (PW-2), Mr. P. Mohan (PW-19). The conclusion of the Trial Court is as below: -

> "39. Now the totality of the evidence did not point out that for the reason of Ms. Savitha fell in love with PW19 which was not acceptable to the accused, who expected Ms.Savitha to respect him properly by obliging his words and in doing so she was compelled with disassociate with PW19 by braking her relationship with him – and to take brake her proposal to marry PW19. When he has expected

> the assistance of his wife PW2 to mend the ways of Ms. Savitha which did not give any positive result as the accused was padfied and he was asked to keep quite from the affairs of Ms. Savitha, the accused himself intervened with the affairs of Ms. Savitha in the indirect manner by calling PW19 expressing dissatisfaction about their marriage proposal and accused made attempts to see that the relationship between Ms. Savitha and PW19 breaks away by means of transfer of PW19. The accused though successful in getting transfer of PW19 from one section to another Section, as Ms. Savitha and PW19 decided to go ahead with their proposed marriage, as a last resort the accused meddle with PW2 compelled her to convince Ms. Savitha to take brake from the proposed marriage as PW2 did advise her husband that the parents and brothers of Ms, Savitha will take care of her affairs and asking him to keep quite, accused used the life of the children and himself as weapon of offence against PW2 and for this background leading to death of the children explained clear version of the prosecution. There are no other hypothesis which can be possible to take out from the evidence as well the defence from the ocular evidence on record. Hence the motive for the incident has been explained by the prosecution is in the manner proposed. In the result point No.2 is answered in the Affirmative."

4.2. The question next to be considered was whether, when the appellant-convict picked up the deceased children from his house in Mangalore, the sole intention was of committing their murders. It was noted that the case rests on circumstantial evidence. The circumstances, listed by the prosecution as pointing cumulatively to the guilt of the appellant-convict, are -

> "78. Now the prosecution has proposed several chains of circumstances which are
>
> 1. Arrival of the accused to Mangalore on 16-06-2010;

2) Accused moving with the children from Mangaldore to Ardamoole in a taxi belongs to PW9;

3) The accused was seen together with the children at Ardamoole and he was seen alone at Ardamoole moving towards Puttur;

4) The accused sending SMS messages to PW2 indicating the fate of himself as well as the children and directing her to do certain act as her fate,

5) PW2 meeting PW9, who taking them to Ardamoole where with the assistance of PW4, 6, 7 the dead bodies of the children was found in the pond of PW7,

6) thereafter the accused was found stayed at Hotel Rama at Puttur and he has been apprehended on 17-06-2010,

7) homicidal death of the children,

8) motive for the incident and

9) failure on the part of the accused to offer explanation for the incriminating evidence appeared against him:"

4.3. It was held that the circumstances did indeed point to the guilt of the appellant and that the defence could not point to any alternative hypothesis to establish his innocence. He was in the company of the deceased children and none else, hence the application of the last seen theory - he had to explain that since they were with him, and a short time later they were found to be deceased, it was incumbent upon him to furnish an explanation. Since none is forthcoming, all circumstances considered, the chain is completed.

4.4. *Qua* the fourth question it is held that none of the exceptions mentioned in Section 300 I.P.C. are attracted in this case, and as such, essential ingredients of Section 302 I.P.C. were met, warranting his conviction thereunder.

4.5. As such, it was held that the prosecution had proved its case beyond reasonable doubt. Thereafter, vide order of sentencing dated 3rd December 2013, the Court balanced the aggravating and mitigating circumstances, to conclude that the act of the appellant-convict did indeed fall into the rarest category, deserving the harshest penalty known to the criminal justice system, i.e., the penalty of death.

5. As per the requirement of law, the matter traveled to the High Court in confirmation proceedings. The appellant-convict also filed an appeal. The High Court, having heard the parties, held that his arrival at Mangalore, taking his kids around the city and eventually to the gardens of PW-7, and the short time gap between when the children and the appellant-convict were seen together and the discovery of the deceased children's bodies, i.e., three circumstances taken together are sufficient to drive home the guilt of the accused. In doing so, the testimonies of PW-1, PW-2, PW-3, PW-4, PW-7 and PW-9 have been relied upon. Having observed thus, the Court then went on to make certain observations regarding the messages and call records produced. An objection to the effect that the same are inadmissible in Court,

and the Trial Court ought not to have considered the same in the absence of a certificate under Section 65-B of the Indian Evidence Act, 1872, was raised, however, the same was cast aside, holding that their production was not as a piece of substantive evidence, and instead, was used to corroborate the evidence of PW-1 and PW-2, and also to establish the movements of the appellant-convict. It was held as under –

> "31. With regard to the contents of SMS are concerned, we fully approve the procedure adopted by the learned Sessions Judge in bringing on record the contents of these SMS. We have perused the lower court records. It is seen that the learned Sessions Judge has passed a detailed order on the applications made by the prosecution under Sections 3, 62 and 65B of the Evidence Act and Sections 230 and 311 Cr.P.C. on 19.4.2013. Further, the proceedings dated 22.10.2013 reveal that M.Os 1 and 4 viz., the mobiles which were seized by the Investigating agency, were opened in the open court. These mobile phones were charged and SMS therein were transcribed by the court in the open court. These transcriptions were very much available to the accused at the time of cross-examination of the witnesses. Therefore, it does not like in the mouth of the accused now to contend that reliance on this material is illegal or contrary to the procedure prescribed under the Evidence Act. Even otherwise the law is well settled that objection regarding the proof of documents if not taken at the time when the document is produced before the court, the party cannot be permitted to raise the said objection at the appeal stage. In SONU@ AMAR vs. STATE OF HARYANA (2017 SCC ONLINE SC 765), the Hon'ble Supreme Court had an occasion to consider such an issue…"
>
> "32. The accused had full and ample opportunity to explain the circumstance of SMS sent by him. The accused having not offered any explanation, the trial court was justified in placing reliance on the contents of these

> messages. The Trial Court has reproduced the contents of these messages in the impugned judgment in verbatim and we do not find it necessary to burden the record of reproducing them over again. Suffice it to note that the author of these SMS and call records have been proved and these SMS lend suitable corroboration to the testimony of PW-2 that accused sent a false message through the Mobile (M.O.6) of deceased Savitha, after her death misleading PW-2 that she was admitted in Manipal Hospital and further that after drowning the children in the tank, he sent her the message through his mobile M.O.4 that he had already sent his mother-in-law, sister-in-law and children to heaven."

On motive, it was observed that the differences stemmed from the opposing stands taken by PW-2 and other members of her family regarding Ms. Savitha's relationship with Mr. P. Mohan (PW-19). The appellant-convict was of the view that the said relationship should be disapproved of, and as a result broken off, but this position did not get any support from others and as such, he resolved to eliminate the members of PW-2's family and his own children.

As such, it was concluded as under :

> "Thus, on ultimate analysis of all of the above facts and circumstances, the gravity and the magnitude of the offences, committed by the accused, the depraved manner in which he committed four murders including that of his minor children, the utter lack of remorse on part of the accused , his determination to annihilate almost all members of the immediate family of PW.2 and the threats issued to her and the surviving members of her family and also in the larger interest of the society, the Trial Court was justified in awarding death sentence to the accused. We do not find any good reason to commute the death sentence to life imprisonment with or without remission. We do not find any mitigating circumstance warranting commutation

> or to take any lenient view in the matter. On thorough and careful consideration of the entirematerial on record and on appraisal of all the attending facts and circumstances as discussed above, we are of the firm view that in the fact situation of the present case, death penalty is the only just and appropriate punishment that requires to be imposed on the accused. The reference made by the Trial Court deserves to be accepted."

6. It is clearly a case of circumstantial evidence. What needs to be examined in such a case, no longer needs reiteration. The principles to be applied in consideration of the evidence have been christened the 'Panchsheel Principles' detailed in the ***Sharad Birdhichand Sarda v. State of Maharashtra***[6] judgment, delivered by three learned Judges of this Court. Here itself, it may be emphasized that both the Courts below have found the circumstances to be established against the appellant-convict. We have already discussed the same in the preceding paragraphs. Having heard the learned counsel for the parties, and perused the record, we have not been persuaded that there is any error in the findings recorded by both the Courts *qua* the guilt of the convict-appellant and the judgment on conviction. Hence, we need not burden the record by referring to the same.

7. On the aspect of sentence, nonetheless, we are of the view that some interference is warranted. As is well known, the final punishment to be awarded to an accused after a conclusion of guilt being arrived at, at trial, is to be determined after having

[6] (1984) 4 SCC 116

heard the parties on sentence, and after an analysis of the aggravating and mitigating circumstances. Which is why, to enable parties to adequately prepare, it is desirable that there be some gap between the pronouncement of judgment, and the hearing on sentencing. It has, however, been held that the point of focus in a sentencing hearing is quality and reliability of assistance and closeness of time, itself would not render the sentence handed down, susceptible to doubt. In other words, there exists a conflict between judgments rendered by Benches of co-equal strength – one, suggesting that a bifurcated hearing on sentence is necessary (as was done in the present facts); and the other, suggesting that a same-day hearing would not fall foul of Section 235(2), Cr.P.C. so long as quality and reliability of the assistance on sentencing can be ensured. This conflict has been discussed at length in ***Framing Guidelines Regarding Potential Mitigating Circumstances to be Considered while Imposing Death Sentences, In re***[7]. Here, the time aspect is undoubtedly met. Be that as it may, considering the importance of the issue, we reiterate the reference to the larger Bench in the said decision, for certainty on this issue is essential for proper and just adjudication in trials.

8. At this juncture, it is important to take note of the circumstances taken into account by the Trial Court –

[7] 2022 SCC OnLine SC 1246

S.No.	Mitigating Circumstances	Aggravating Circumstances
1.	Appellant-convict was employed as bank manager and could have been a role model for society	Manner of murder of sister in law and mother in law and destruction of evidence thereof.
2.		Pre-meditated, unprovoked murder of his minor children of tender years
3.		He meddled with the witnesses, showing criminal intent, and wanting to save himself from punishment.

OUR CONSIDERATION

9. A perusal of the order of sentencing reveals that the learned counsel for the appellant-convict had presented other circumstances, which, in his submission, were mitigating in nature, but the same were not taken into consideration by the Trial Court. They are :

a) lack of criminal antecedents;

b) his behaviour, good relations with family have been testified to by prosecution witnesses;

(c) as a form of repentance for his actions, he desires to serve the elderly- this commitment is used to show possibility of reformation;

(d) he had no ill intentions towards the family of PW-2 since he was the one who arranged for a job for Ms. Savitha;

(e) it is a case resting entirely on circumstantial evidence.

10. The absence of criminal intent as a mitigating circumstance was negated by the Court observing that during Trial, he had tried to meddle with the witnesses and influence them - this shows the presence of criminal intent, leading to the registration of case in C.C No.3080 of 2012, under Section 506 I.P.C., which on the said date was pending on the file of 3rd Additional Civil Judge and JMFC, Tumkur (for attempting to intimidate PW-2) and another under Section 195A and Section 507 I.P.C. in SC No.136 of 2013 (for attempting to intimidate PW-6) before the Court that dealt with the trial for Section 302 I.P.C. We find this argument difficult to accept. The word antecedent, as is obvious, means "a preceding event, condition or cause[8]". Therefore, to use something that did not exist at a prior point in time, to deny him the benefit of the consideration of lack of criminal antecedents as a mitigating circumstance, was not justified. Antecedents are of two types : one is pretrial and the other is during or post-trial. The appellant convict has no antecedents, however, during trial he attempted to intimidate witnesses, as we have already discussed.

[8] http:// www.merriam-webster.com/dictionary/antecedent

11. The behaviour, which has been testified to be good by the prosecution witnesses themselves, is also a factor which ought to have been given due consideration. That, along with the fact that he was the one who got Ms. Savitha the job, cumulatively points to decent behavior by the convict-appellant. Insofar as the point of the desire to serve people of advanced age, we are of the view that the Trial Court was correct in rejecting that as a mitigating circumstance. Such a determination can also be an afterthought- a mere plea without any foundation or substance cannot accrue to any benefit. Had the Courts below through appreciation of testimony found that the appellant-convict was so inclined and, thereafter, such a plea had been made, positive consideration thereof would be warranted. It was not so.

12. The ground of the case being based on circumstantial evidence, although, addressed in the main judgment, is amiss in the order of sentencing. A Three-Judge Bench in ***Shatrughna Baban Meshram v. State of Maharashtra***[9], considered this question in detail. It was concluded as hereinbelow :

> "**49.** These cases discussed in preceding paragraphs show that though it is accepted that the observations in *Swamy Shraddananda (2)* [*Swamy Shraddananda (2)* v. *State of Karnataka*, (2008) 13 SCC 767 : (2009) 3 SCC (Cri) 113] did not lay down any firm principle that in a case involving circumstantial evidence, imposition of death penalty would not be permissible, a definite line of thought that where the sentence of death is to be imposed on the basis of

[9] (2021) 1 SCC 596

> circumstantial evidence, the circumstantial evidence must be such which leads to an exceptional case was accepted by a Bench of three Judges of this Court in *Kalu Khan* [*Kalu Khan* v. *State of Rajasthan*, (2015) 16 SCC 492 : (2015) 4 SCC (Cri) 871] . As a matter of fact, it accepted the caution expressed by Sinha, J. in *Swamy Shraddananda* v. *State of Karnataka* [*Swamy Shraddananda* v. *State of Karnataka*, (2007) 12 SCC 288, para 87 : (2008) 2 SCC (Cri) 322] and the conclusions in *Santosh Kumar Satishbhushan Bariyar* [*Santosh Kumar Satishbhushan Bariyar* v. *State of Maharashtra*, (2009) 6 SCC 498 : (2009) 2 SCC (Cri) 1150] to restate the principles with clarity in its decision.
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> **50.** It can therefore be summed up:
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> **50.1.** It is not as if imposition of death penalty is impermissible to be awarded in circumstantial evidence cases.
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> **50.2.** If the circumstantial evidence is of an unimpeachable character in establishing the guilt of the accused and leads to an exceptional case or the evidence sufficiently convinces the judicial mind that the option of a sentence lesser than death penalty is foreclosed, the death penalty can be imposed.
>
> **51.** It must therefore be held that merely because the instant case is based on circumstantial evidence there is no reason to commute the death sentence. However, the matter must be considered in the light of the aforestated principles and see whether the circumstantial evidence is of unimpeachable character and the option of a lesser sentence is foreclosed."
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> (Emphasis supplied)

13. As is clear from the above, the award of death penalty is not precluded. The rule only is that the circumstantial evidence ought to be unimpeachable, and the matter at hand be an

exceptional case, or the evidence be so convincing that the option of imposition of any other penalty stands foreclosed in the judicial mind. Therefore, non-consideration of this ground cannot be said to be damaging to the sanctity of the sentencing order.

14. It has been said in ***Swamy Shraddananda (2)*** v. ***State of Karnataka***[10] that *"The absolute irrevocability of the death penalty renders it completely incompatible to the slightest hesitation on the part of the Court."* Given that recently, this Bench in ***Deen Dayal Tiwari v. State of U.P.***[11] considered that multiple factors, including the absence of criminal antecedents, may be a ground to commute the sentence of the accused.

15. To appreciate the factors that can be considered in commutation of sentence, let us undertake an analysis of cases where a similar approach has been taken by this Court, i.e., the sentence of death stands commuted to imprisonment for life till the last breath -

Part-I

WHEREIN DEATH PENALTY WAS COMMUTED TO LIFE SENTENCE WITHOUT REMISSION FOR THE REMAINDER OF THE CONVICT'S LIFE

S. No.	Case Details	JJ.	Brief Facts	Reasons for Commuting Sentence

[10] (2008) 13 SCC 767
[11] 2025 SCC OnLine 237

1.	**Swamy Shraddananda (2) v. State of Karnataka** (2008)13 SCC 767	3	Appellant killed wife who was the granddaughter of a Dewan. Subsequently, he sold off her properties and was absconding.	• The manner of committing murder did not cause any mental or physical pain to the victim. • Appellant confessed his guilt before the High Court. **@54**
2.	**Sebastian v. State of Kerala** (2010) 1 SCC 58	2	Appellant kidnapped a 2-years-old girl from her house, committed rape on her and then murdered her.	• Appellant was 24-years-old at the time of the incident.
3.	**B. Kumar v. Inspector of Police** (2015) 2 SCC 346	3	Appellant worked as a mason in the house of the victims. He committed rape on a woman, murdered a boy whom he had tied; being an eyewitness to the act of rape, and further injured an eyewitness to the murder.	• Appellant's motive was not to commit murder but to commit rape on the prosecutrix. **@18** • No possibility of him having committed any another offence since he was apprehended 6 years after the incident. **@21**
4.	**'X' v. State of Maharashtra** (2019) 7 SCC 1	3	Appellant murdered two minor girls after committing rape on them. The deceased victims were the Appellant's neighbour.	Appellant suffering from severe mental illness since 1994, i.e., post-conviction, during his long incarceration as a death row convict, i.e., 17 years. @74

5.	**Sudam v. State of Maharashtra,** (2019) 9 SCC 388	3	Petitioner murdered his wife, his two children and the two children from his wife's extramarital affair.	• Nature of circumstantial evidence is a mitigating factor in the instant case. **@21** • No medical evidence to show that Petitioner had crushed the face of deceased to avoid identification. **@16**
6.	**Ravishankar v. State of M.P.** (2019) 9 SCC 689	3	Appellant kidnapped a 13-year-old girl. Thereafter, he committed rape on her and murdered her by throttling. Subsequently, he destroyed evidence by throwing her half-naked body in a dry well.	• Key witness made contradictory statement
7.	**Vijay Kumar v. State of J&K** (2019) 12 SCC 791	3	Appellant murdered 3 minor children and caused injury to the remaining minor child and their father.	• No criminal antecedents. • Not a professional killer. **@12**
8.	**Rajendra Pralhadrao Wasnik v. State of Maharashtra** (2019) 12 SCC 460	3	Appellant committed rape and murder of a 3-year-old girl.	Prosecution failed to produce available DNA evidence and other material evidence before the Trial Court. **@57** Possibility of reformation and rehabilitation not considered by lower

				courts. **@79**
9.	**Mohd. Mannan v. State of Bihar** (2019) 16 SCC 584	3	Petitioner-accused was a mason working at the house of an 8-year-old girl. He kidnapped, raped and murdered the child. Case is based on circumstantial evidence and alleged extra-judicial confession made by the Petitioner. **@57**	• Legal aid provided to him was inadequate. **@ 38** • No opportunity given to the Petitioner to illustrate mitigating factors. **@ 39** • No evidence showing murder was premeditated. **@47** • No DNA analysis of the sperm found on the victim's body conducted by the prosecution. **@53** • Psychiatrist report shows possibility of neurological and/or mental health issues. **@68** • Post conviction mental health of the Petitioner a relevant consideration. **@84**
10.	**Dattatraya v. State of Maharashtra** (2020) 14 SCC 290	3	Appellant is a 50-year-old man who committed rape on a 5-year-old girl which resulted in her death.	• No evidence to show that Appellant took victim to his residence. **@114** • No evidence to show that murder was intended or premeditated. Appellant did not carry any weapon. • Possibility of the Appellant being unaware that sexual assault would result in

				death cannot be ruled out. **@123** • Legal assistance to the Appellant ineffective. **@129** • Question of reform not considered by the Trial Court. **@130**
11.	**Jagdish v. State of M.P.,** (2020) 14 SCC 156	3	Petitioner murdered his wife and five children.	• Petitioner in custody since 14 years. • Unexplained delay of 4 years in forwarding the mercy petition by State. **@12**
12.	**Rabbu v. State of M.P.,** 2024 SCC OnLine SC 2933	3	Appellant committed rape on a minor girl and set her on fire, thereby killing her.	• Appellant brought up by single father, comes from a backward socio-economic stratum of society, was 22-year-old at the time of incident, has no criminal antecedents and possibility of reform cannot be ruled out. **@15-16**
13.	**Deen Dayal Tiwari v. State of U.P.** 2025 SCC OnLine SC 237	3	Appellant murdered his wife and four minor daughters with an axe.	• Absence of previous criminal antecedents. • Appellant's behavior in custody has been "satisfactory" and "normal," noting that he has been performing assigned duties without any adverse conduct. • Nothing on record suggests that the

				Appellant is incapable of rehabilitation. **@20**

PART – II

CASES WHEREIN LIFE SENTENCE HAS BEEN IMPOSED TILL THE END OF THE CONVICT'S NATURAL LIFE SUBJECT TO REMISSION

S. No.	Case Details	JJ.	Brief Facts	Reasons for Commuting Sentence
1.	**Mulla v. State of U.P.** (2010) 3 SCC 508	2	Appellants abducted and murdered five persons.	• One of the Appellants is 65-years-old and in custody since 14 years. **@79** • Appellants belong to an extremely poor background. • Possibility of reformation not ruled out. **@81**
2.	**Rameshbhai Chandubhai Rathod (2) v. State of Gujarat** (2011) 2 SCC 764	3	Appellant murdered and committed rape on a minor girl who belonged to the apartment of which he was a watchman.	• Appellant was 27-years-old at the time of the incident. • Possibility of reformation not ruled out. • Appellant not granted adequate opportunity to plead on the question of sentence. **@7**
3.	**Sandesh v. State of Maharashtra** (2013) 2 SCC 479	2	Appellant committed robbery during which he fatally injured a pregnant woman and her mother-in-law. Subsequently, he murdered another relative of the victims during the commission of the robbery.	• Appellant was 23-years-old at the time of incident. • Murder not premeditated. • Appellant not a hardened criminal. • Good conduct in jail.

4.	**Mohinder Singh v. State of Punjab** (2013) 3 SCC 294	2	Appellant murdered his wife and daughter because of a previous case filed by his wife against the Appellant for committing rape on his minor daughter.	• Appellant did not harm his other daughter while committing the crime. • Appellant is a poor man unable to sustain himself. • Probability of reformation not foreclosed. **@28**
5.	**Deepak Rai v. State of Bihar** (2013) 10 SCC 421	3	3 accused committed murder of informant's wife and five children.	• Death sentence commuted only in respect of A-3, i.e., Bacha Babu Rai. • No overt act attributed to A-3.
6.	**Vyas Ram v. State of Bihar** (2013) 12 SCC 349	2	Appellants killed 35 persons and injured 7 belonging to the a particular community.	• Only 1 witness has attributed the role of slitting throats to the Appellant. • Incident took place in 1992 – charges framed in 2004.
7.	**Sunil Damodar Gaikwad v. State of Maharashtra** (2014) 1 SCC 129	2	Appellant murdered his wife and two sons. He attempted to murder his daughter but she survived.	• Appellant suffered from economic and psychic compulsions. • Possibility of reformation cannot be ruled out. • No criminal antecedents. • Appellant was living in abject poverty.
8.	**Mahesh Dhanaji Shinde v. State of Maharashtra** (2014) 4 SCC 292	3	Appellants murdered two minors and seven persons after which the Appellants robbed them	• Appellants were 23-29-years-old at the time of incident. • Appellants lived in acute poverty. • Appellants have pursued further education and meaningful endeavours during custody. **@38**

9.	**Sushil Sharma v. State (NCT of Delhi)** (2014) 4 SCC 317	3	Appellant murdered his wife with a firearm and burnt the body in a tandoor.	• No criminal antecedents. • No evidence to show absence of possibility of reformation. • Appellant has spent 10 years in death cell. • Appellant is the only son of his parents who are old and infirm. **@105**
10.	**Mohd. Jamiludin Nasir v. State of West Bengal** (2014) 7 SCC 443	2	The incident pertains to attack on police personnel wherein 5 police officials were killed and 13 others were injured along with other civilians. Death penalty of accused Aftab commuted to life imprisonment till the end of his life.	• The acts committed were not directed against the sovereignty of the State. Hence, it could not be equated with precedents such as Navjot Sandhu, Ajmal Kasab or Mohd. Arif. • Aftab was the mastermind behind the entire operation – did not commit the act himself. He made the other accused commit the murders through.
11.	**Arvind Singh v. State of Maharashtra** (2021) 11 SCC 1	3	Appellant kidnapped an 8-years-old boy to demand ransom. Subsequently, he murdered the boy.	• Appellants were 19-years-old at the time of the incident. • No criminal antecedents. A-1 surrendered at the first opportunity. **@98**

16. Considering the above exposition on instances, where this Court has found it fit to commute the death sentence into imprisonment for the remainder of natural life, and keeping in view the factors that :

a) the appellant- convict had no criminal antecedents;

b) good relations with the deceased persons;

c) all mitigating circumstances were not considered by the Trial Court,

We direct that the hangman's noose be taken off the appellant-convict's neck, and instead that he remains in prison till the end of his days given by God Almighty.

17. We should not even for a moment be taken to understand that the barbarity of the crime, the helplessness of the two children who met the most unfortunate of ends, and that too at the hands of the very person who bore half the responsibility of bringing them into the world, has escaped us, or we, in any way have condoned such a hideous act, done by the appellant-convict. Ms. Savitha and Ms. Saraswathi, too, were killed for no fault of theirs either (for which the accused already stands tried and convicted separately). Whom a person falls in love with, is not within the human sphere of control - the former fell in love with her colleague, Mr. P. Mohan (PW-19) who was her co-worker, and who incidentally was of a different caste. When told to break off her relationship with him for that reason, she couldn't. Her sister, Smt. Sundari and her mother, the latter, both supported their near and dear ones in pursuing their desires. We see nothing wrong with that. The appellant-convict, getting his sister-in-law a job is out of love and affection for the family members of his

wife, which, of course, is by extension, his family, and so, for him to expect that his word be taken as the gospel truth which everyone is bound to follow, is unquestionably a case of unjustified high-handedness. It is sad that such a restrictive world-view on part of the appellant-convict became the reason for these senseless acts of violence and depravity. Had he heeded the advice of PW-2, when she told him not to interfere in Ms. Savitha's personal matters, he could have gone on to live a perfectly happy life. After all, it is not without reason that the well-known proverb goes - "live and let live" which is said to mean that people should accept the way other people live and behave, particularly, if their way of doing things is different than one's own. But be that as it may, when the sentence of death is imposed, it should only be imposed if the same is possible, even after an objective consideration of all the factors in favour of the person accused of having committed the offence, which as discussed supra, was not done properly.

CONCLUSION

18. The appeals are, therefore, partly allowed to the extent of the sentence modification. In the result, the appellant-convict's conviction for the murders of Master Bhuvanraj, and Miss Krithika, is maintained, but he shall now await his natural end, without remission, in the confines of a penitentiary.

Pending applications, if any, shall stand closed.

…….....……J.
(VIKRAM NATH)

..……..….....J.
(SANJAY KAROL)

…….….....….J.
(SANDEEP MEHTA)

New Delhi;
February 13, 2025.