



2026 INSC 557

REPORTABLE
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 491-492 OF 2019

**SHAHJAD ALI @ ALI UR
REHMAN** **...APPELLANT(S)**

VERSUS

STATE OF UTTARAKHAND **...RESPONDENT(S)**

J U D G M E N T

Mehta, J.

1. Heard.
2. The appellant herein was arraigned as an accused in connection with FIR being Crime No. 23 of 2011, registered at Sahaspur Police Station, Dehradun, Uttarakhand for the offences punishable under sections 302, 392, 436, 506 and 411 of the Indian Penal Code, 1860¹ and Section 25/4 of the Arms Act, 1959². He was subjected to trial before the learned Additional Sessions Judge, Vikas Nagar,

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Reason:

¹ For short "IPC".

² For short "Arms Act".

Dehradun³ in Sessions Trial No. 70/2011. The trial Court *vide* judgment of conviction and order of sentence dated 4th September, 2015, convicted the appellant for the aforementioned offences and sentenced him in terms indicated below: -

S. No.	Charged Offence	Sentence	Default Sentence
1.	Section 302 of the IPC	Death penalty and fine of Rs. 10,000/-	6 months imprisonment
2.	Section 436 of the IPC	Rigorous imprisonment for 7 years and fine of Rs. 5,000/-	3 months imprisonment
3.	Section 506 of the IPC	Rigorous imprisonment for 1 year	-
4.	Section 392 of the IPC	Rigorous imprisonment for 7 years and fine of Rs. 5,000/-	3 months imprisonment
5.	Section 411 of the IPC	Rigorous imprisonment for 2 years	-
6.	Section 25/4 of the Arms Act	Rigorous imprisonment for 6 months and fine of Rs. 500/-	1 month imprisonment

³ Hereinafter, referred to as “trial Court”.

3. Being aggrieved, the appellant preferred an appeal⁴ before the Uttarakhand High Court⁵ for assailing his conviction and the sentences awarded to him. The trial Court also forwarded a reference⁶ under Section 366 of the Code of Criminal Procedure, 1973⁷ for confirmation of the death sentence. The learned division bench of the High Court *vide* judgment dated 1st June, 2018 dismissed the appeal preferred by the appellant and answered the reference in the affirmative thereby confirming the death sentence awarded by the trial Court. The judgment dated 1st June, 2018 rendered by the High Court is the subject matter of challenge in these appeals by special leave.

Brief Facts: -

4. The prosecution case, in brief, is that one Sanjay Kumar Guleria, was running a motorcycle showroom-cum-workshop under the name and style of “Hariom Automobile” at Selakui wherein the appellant was employed as a head mechanic. Besides him, Pradeep (PW-2), Gulfam (PW-13), Rajesh and

⁴ Criminal Appeal No. 333 of 2015.

⁵ Hereinafter, being referred to as “High Court”.

⁶ Criminal Reference No. 01 of 2015.

⁷ For short, “CrPC”.

Abid were working as helpers and trainees in the showroom. One Lalita, was also employed at the showroom and was entrusted with supervisory duties at the counter.

5. A couple of months prior to the date of the incident, Lalita had made a complaint regarding the conduct of the appellant to Sanjay Guleria, pursuant to which the appellant was removed from service. The appellant repeatedly approached Sanjay Guleria requesting that he be reinstated in employment, however, Sanjay Guleria refused to re-engage him. The appellant consequently developed resentment and bore a grudge against Sanjay Guleria on account of his termination from service.

6. On 10th February, 2011 at about 4:25 p.m., the appellant arrived at the showroom premises and stabbed Sanjay Guleria on his neck with a big knife which he had concealed in his back pocket of his pant. Subsequently he accosted Lalita, who tried to run away from the showroom for saving her own life, but the appellant pursued her while shouting that everything had happened because of her and that she would not be spared. The appellant caught hold of Lalita in a nearby empty plot and inflicted multiple

blows upon her with the knife, resulting in her death at the spot. Sanjay Guleria, who had sustained grievous injuries in the assault, collapsed after coming out of the showroom and succumbed to the injuries sustained by him.

7. After assaulting and killing both the victims, the appellant came onto the road wielding the weapon and threatened that anyone attempting to intervene or apprehend him would meet the same fate. The incident caused panic and terror among the persons in the vicinity, thereby disturbing public peace and creating an atmosphere of fear in the locality.

8. Immediately thereafter, the appellant set the showroom on fire, as a result whereof the articles and materials kept therein were burnt and destroyed. He subsequently fled from the spot on a motorcycle bearing Registration No. UK-07Z-5561 and, while leaving, threatened that any person attempting to apprehend him would also be killed.

9. The occurrence was stated to have been witnessed by the complainant, Anil Kumar (PW-1), Pradeep (PW-2), Gulfam (PW-13) and Harish Chandra (PW-17). On the basis of the written report lodged by the complainant Anil Kumar (PW-1) at about 5:40

p.m. on 10th February, 2011 itself, FIR No. 23 of 2011 came to be registered at Police Station Sahaspur, district Dehradun for offences punishable under Sections 302, 436, 392 and 506 of the IPC with the appellant being named as the assailant.

10. Investigation of the case was initially undertaken by Sub-Inspector Manoj Kumar (PW-19), who proceeded to the place of occurrence along with the police force. During investigation, the statement of the complainant was recorded and inquest proceedings in respect of deceased Sanjay Guleria and Lalita were conducted. Blood-stained earth and plain earth were seized from the respective places of occurrence and corresponding seizure memoranda were prepared. Postmortem examinations of both the deceased *i.e.*, Lalita and Sanjay Guleria were conducted by Medical Jurist, Dr. Y.S. Thapiyal (PW-4) and corresponding postmortem reports were obtained during investigation.

11. On the very same day, the appellant was apprehended and a motorcycle bearing Registration No. UK-07Z-5561 along with a blood-stained knife allegedly used in the commission of the offence were recovered from him. Arrest memo and information

memo pertaining to his arrest were also prepared. The clothes worn by the accused at the time of arrest were found to bear blood stains and were seized under a separate seizure memo. Subsequently, he was subjected to medical examination.

12. During investigation, the police also seized blood traces allegedly found on the clothes of one Harish Chandra (PW-17) and on a piece of the cover of the motorcycle allegedly taken away by the appellant while fleeing from the place of occurrence.

13. Further investigation of the case was entrusted to another Investigating Officer, namely Praveen Singh (PW-22).

14. During the course of further investigation, a completely burnt structure of a motorcycle and frame of a scooty were seized from the place of occurrence and corresponding seizure memo was prepared. Site plans of the place of occurrence as well as the place from where the appellant was apprehended were prepared and the articles seized during investigation were forwarded to the Forensic Science Laboratory⁸ for examination.

⁸ For short, "FSL".

15. Upon completion of investigation, the Investigating Officer formed an opinion that sufficient material existed to charge the accused for offences punishable under Sections 302, 392, 411, 436 and 506 of the IPC well as Section 25/4 of the Arms Act. Accordingly, a chargesheet came to be filed before the competent Court. The learned Chief Judicial Magistrate, Dehradun took cognizance of the offences and committed the case to the Court of Sessions for trial, where it came to be registered as Sessions Trial No. 70 of 2011.

16. Charges under Sections 302, 392, 411, 436 and 506 of the IPC and Section 25/4 of the Arms Act were framed, read over and explained to the accused, who denied the same and claimed trial. The prosecution examined 22 witnesses and exhibited certain documents in order to prove its case. 1 witness was examined on behalf of the accused in defence. By resorting to the procedure under Section 313 CrPC, the appellant was questioned and confronted with the circumstances appearing against him in the prosecution case. He refuted these allegations and claimed to have been falsely implicated.

17. The trial Court upon appreciating the arguments advanced by the Public Prosecutor and the defence counsel and upon analysing the oral and documentary evidence available on record, found the appellant guilty for the charges framed against him and sentenced him as noted *supra*.

18. Being aggrieved, the appellant preferred an appeal under Section 374(2) of the CrPC to the High Court challenging his conviction and sentences awarded to him whereas, a reference was forwarded by the trial Court under Section 366 CrPC to the High Court, for confirmation of the death sentence awarded to the appellant. The appeal filed by the appellant was rejected and the reference was answered in the affirmative by the Division Bench of the High Court *vide* common judgment dated 1st June, 2018 which is the subject matter of challenge in the present appeals by special leave.

Submissions on behalf of the appellant:-

19. Mr. Sanjay Kumar Dubey, learned counsel appearing for the appellant strenuously contended that the both the Courts below erred in convicting the appellant and awarding him death penalty.

20. On the aspect of conviction of the appellant, learned counsel pointed out that there exists a stark discrepancy between the ocular testimony of the prosecution witnesses and the contemporaneous documentary evidence regarding the timing and sequence of the occurrence. Learned counsel submitted that while the prosecution witnesses attempted to place the incident at around 4:25 p.m. and projected a prolonged sequence involving assault, chase, murder and arson, the ambulance call records and fire brigade records reveal that information regarding the incident had already been received by the authorities at approximately 4:00 p.m., thereby materially undermining the prosecution narrative. Learned counsel also highlighted that alleged eye-witnesses, Anil Kumar (PW-1) and Pradeep (PW-2) furnished inconsistent accounts regarding the interaction preceding the assault, thereby creating doubt as to whether the occurrence was sudden or premeditated.

21. Questioning the reliability of the ocular testimony, learned counsel submitted that the evidence of the alleged eyewitnesses is wholly unreliable, self-contradictory and incapable of

sustaining conviction. In this regard, it was pointed out that Gulfam (PW-13), despite claiming to be an eyewitness, admitted in cross-examination that he did not know the appellant personally, whereas Harish Chandra (PW-17) made material improvements over the statement earlier recorded under Section 164 CrPC. Attention was also drawn to the fact that neither any Test Identification Parade was conducted nor was any independent witness examined, notwithstanding the fact that as per the prosecution case, the incident occurred in a busy commercial locality during broad daylight.

22. Learned counsel further assailed the investigation by contending that the same suffered from grave lapses which materially prejudice the defence and render the prosecution case doubtful. It was submitted that no fingerprints were lifted either from the alleged weapon, the motorcycle, or the place of occurrence and that vital forensic evidence, including the blood-stained clothes of Anil Kumar (PW-1), was never seized.

23. On the aspect of sentencing, learned counsel contended that the trial Court erred in imposing the death penalty and the High Court also erred in

affirming the same. It was submitted that the present case does not satisfy the “rarest of rare” doctrine as laid down by this Court in ***Bachan Singh v. State of Punjab***⁹, inasmuch as the occurrence arose out of personal animosity following termination from employment and not out of any depraved, anti-social or diabolical motive warranting the extreme penalty of extinguishing the life of the accused.

24. Learned counsel further submitted that the Courts below failed to undertake the constitutionally mandated balancing exercise between aggravating and mitigating circumstances and proceeded to award the death penalty on a pre-conceived notion of the brutality of the crime alone.

25. It was further submitted that the mandatory sentencing guidelines laid down by this Court in ***Manoj & Ors. v. State of Madhya Pradesh***¹⁰ were not complied with in the present case. Learned counsel pointed out that no psychological or psychiatric evaluation, probation officer’s report, socio-economic assessment or jail conduct report was placed before the Courts below prior to awarding

⁹ (1980) 2 SCC 684.

¹⁰ (2023) 2 SCC 353.

capital punishment or the affirmation thereof. According to learned counsel, the failure to undertake the exercise of identifying the mitigating and aggravating factors preceded by a proper psychosocial evaluation of the appellant vitiates the sentencing exercise itself and renders the imposition of death penalty unsustainable in law.

26. Learned counsel contended that this Court in recent decisions has commuted death sentences to fixed-term life imprisonment even in cases involving multiple murders. In this regard reliance was placed upon ***Navas @ Mulanavas v. State of Kerala***¹¹, wherein the sentence of death was commuted to imprisonment for a fixed term of 25 years without remission, and upon ***Mohd. Firoz v. State of Madhya Pradesh***¹², wherein the death sentence was commuted to 20 years' imprisonment without remission after considering the possibility of reformation and rehabilitation of the accused. Learned counsel also referred to the socio-economic background of the appellant and the absence of any material demonstrating that he is beyond reform.

¹¹ 2024 INSC 215.

¹² (2022) SCC OnLine SC 1099.

27. Thus, learned counsel prayed that the instant appeals be allowed and the conviction of the appellant be set aside. In the alternative, it was urged that even if this Court were to affirm the conviction, the sentence of death deserves to be commuted to life imprisonment with possibility of remission.

Submissions on behalf of respondent-State of Uttarakhand:-

28. *Per contra*, Mr. Sudarshan Singh Rawat, learned counsel appearing for the respondent-State vehemently and fervently opposed the submissions advanced by learned counsel for the appellant.

29. Learned counsel supported the judgments rendered by the trial Court as well as the High Court and contended that both the Courts were fully justified in convicting the appellant and awarding the sentence of death for the gruesome double murder for revenge committed by him in broad daylight. It was submitted that conviction was founded upon proper appreciation of the ocular, medical and forensic evidence available on record and does not suffer from any infirmity or perversity warranting interference by this Court.

30. Learned counsel submitted that the prosecution had examined four eyewitnesses, namely Anil Kumar (PW-1), Pradeep (PW-2), Gulfam (PW-13) and Harish Chandra (PW-17), all of whom consistently described the manner in which the appellant first assaulted Sanjay Guleria with a knife inside the showroom and thereafter chased and brutally attacked Lalita in the adjacent plot. It was urged that the testimony of these eyewitnesses remained substantially consistent throughout and stood fully corroborated by the evidence of Dr. Y.S. Thapiyal (PW-4), who conducted the postmortem examinations and proved the nature, number and severity of injuries sustained by both deceased persons. Learned counsel pointed out that Sanjay Guleria suffered a deep incised wound on the neck severing the trachea, jugular vein and carotid arteries, whereas Lalita sustained as many as ten incised and stab wounds including fatal injuries on the neck, chest and arms. According to learned counsel, the brutality, number and nature of injuries clearly establish the deliberate and vicious nature of the assault.

31. Learned counsel urged that the alleged discrepancies sought to be highlighted in the

testimony of prosecution witnesses are trivial and inconsequential in nature and do not affect the core prosecution case. It was contended that such minor inconsistencies are natural in truthful testimony, and the same were duly considered and evaluated by the trial Court as well as the High Court while recording concurrent findings of guilt.

32. Learned counsel further submitted that the prompt lodging of the FIR, the unimpeachable ocular testimonies, the recovery of the blood-stained knife and motorcycle from the appellant, and the FSL report detecting human blood on the weapon, clothes of the appellant and the motorcycle used during escape form a complete chain corroborating and establishing the prosecution version beyond reasonable doubt.

33. On the aspect of sentence, learned counsel contended that the present case squarely falls within the “rarest of rare” category as contemplated in ***Bachan Singh*** (*supra*). It was submitted that the murders were premeditated and committed out of vengeance after the appellant had been removed from service pursuant to a complaint made by Lalita. Learned counsel pointed out that the appellant had

arrived at the showroom concealing a knife on his person. He first slashed the neck of his employer Shri Sanjay Guleria in the showroom and thereafter chased Lalita into a vacant plot nearby where he inflicted repeated blows of the knife upon her. According to learned counsel, the manner of commission of the offence, the extreme brutality reflected from multiple forceful injuries by a sharp weapon, the targeting of a helpless woman who had merely reported misconduct, and the acts of setting the showroom on fire and threatening bystanders clearly demonstrate exceptional depravity and complete disregard for human life.

34. Learned counsel further contended that the conduct of the appellant after the incident completely rules out any mitigating circumstance warranting commutation of sentence. It was urged that the appellant showed no remorse either during investigation or before the Courts below and failed to place any material demonstrating possibility of reformation or rehabilitation thereby justifying the capital punishment.

35. Thus, learned counsel prayed that the instant appeals be dismissed and the conviction of the

appellant as well as the capital punishment awarded to him by the trial Court and confirmed by the High Court be affirmed. In the alternative, it was submitted that in the event this Court is inclined to commute the death sentence, the same ought not to be converted into a fixed-term sentence and the appellant should instead be directed to undergo imprisonment for the remainder of his natural life without possibility of remission or shortening of sentence.

Discussion:-

36. We have given our thoughtful consideration to the submissions advanced at bar and have gone through the impugned judgment and the original record.

A. Conviction: -

37. *Ex facie*, we find the testimony of the eyewitnesses Anil Kumar (PW-1), Pradeep Kumar (PW-2), Gulfam (PW-13) and Harish Chandra (PW-17) to be unimpeachable and beyond the pale of doubt. The presence of these witnesses at the spot was absolutely natural.

38. Anil Kumar (PW-1) is the first informant and the brother of the deceased Sanjay Guleria. He

categorically stated that he used to look after the accounts work at the showroom and had come there in the ordinary course of his duties on the day of the incident. He deposed about the minute details of the occurrence. Relevant portions from his evidence are extracted hereunder: -

“Examination-in-chief

My brother Sanjay Kumar has a Bajaj motorcycle showroom and workshop in Selaqui in the name of Hariom Automobile. This workshop is presently being run by another brother of mine. In the above Hariom automobile of my brother Sanjay Kumar, the accused Ali-ur-Rehman alias Sehzaad who is present in the court used to work as Head Mechanic in addition Abid, Gulfaam, Rajesh and Pradeep also work there and one girl Lalita also used to work in the showroom as Supervisor. Two months earlier to the day of incident Lalita complained about Ali-ur-Rehman alias Sehzaad to my brother Sanjay. On complaint of Lalita my brother fired Ali-ur-Rehman alias Sehzaad from the job in his showroom. After that the accused spoke many times to my brother Sanjay to keep him on the job but my brother refused to keep him on the job. Time to time, he tried to persuade other employees of the showroom to leave the job and started enmity with my brother Sanjay. On 10.02.2011, I came to the showroom of my brother Sanjay in Selaqui after 1.00 PM in the noon since I used to look after the accounts work in the showroom. On that day at around 4.25 in the evening the accused Ali-ur-Rehman alias Sehzaad present in the court came to the showroom of my brother and took out a knife from the side of his pants, assaulted at the throat of my brother Sanjay thereafter leaving my brother ran towards Lalita, the girl sitting on the counter, upon seeing him

Lalita ran outside from the back door which is situated in the eastern direction. The accused stated that "all this is happening because of you and I will not leave you" and he caught her while running in the adjacent vacant plot and assaulted Lalita with knife. Upon seeing the incident the stampede caused at the spot and the accused stated that whoever would interfere I would do the same with him, showing his knife. After that the accused Ali-ur-Rehman alias Sehzaad came inside the showroom and he set the showroom on fire due to which all the goods in the showroom burned to ashes and in this fire, one motorcycle and one scooty also burned completely. The accused after setting the showroom on fire, snatched motorcycle no. UK 07Z-5561 from the showroom and gave threat, while sitting on the motorcycle that he would kill whoever would try to catch him, and fled. My brother Sanjay on whose neck the accused assaulted with a knife, he came out of the shop and fell down. After that all of us ran to pick both the injured and saw that my brother succumbed to the injuries at the spot. At the time of incident, myself and the workers who work in the showroom and the person on whose motorcycle the accused fled, the owner of that motorcycle Harish Chandra and other people who came to the workshop owing to their work also saw the incident and the report of the incident was given same day by me in the P.S. Sahaspur.....

In the opinion of us Panchas, the death of the deceased Sanjay Guleria occurred due to slitting of throat by a sharp-edged weapon.....

On 12.02.2011, Daroga ji came at the spot at showroom and I shown him the place of incident and on the same day police (Daroga ji) took in possession from the spot (showroom) skeleton of one completely burned motorcycle and one scooty before me and Randeep Singh and the paperwork was done at the spot.....

After seeing the structure of burned motorcycle and scooty the witness stated that this is the same burned motorcycle and scooty which was seized by Daroga ji before me. On the structure of burned motorcycle material exhibit-1 and on scooty material exhibit-2 was marked. The accused Ali-ur-Rehman alias Sehzaad is present in the court in judicial custody. This accused committed murder of my brother Sanjay and Lalita by inflicting wound by a knife due to enmity.”

39. We find the evidence of this witness to be truthful and worth reliance. His presence at the crime scene cannot be doubted. This witness, in his testimony, narrated the entire incident in the manner as set out in the FIR and fully supported the prosecution case. Despite extensive cross-examination, nothing material could be elicited so as to impeach the credibility or evidentiary worth of his testimony or to cast any doubt regarding his presence at the place of occurrence.

40. The second eye-witness, Pradeep Kumar (PW-2) was employed as a mechanic at the workshop of Sanjay Guleria and gave explicit testimony implicating the appellant for causing the knife injury on the neck of Sanjay Guleria and thereafter pursuing and attacking Lalita with the same knife. He also deposed about the subsequent acts of the

appellant in setting the showroom on fire. Relevant portions from his evidence are extracted hereinunder:-

“Examination-in-chief

I was working in the motorcycle agency Hariom automobiles of Sanjay Guleria for around three months prior the date of incident on 10.02.2011. The above agency was Bajaj motorcycle agency. I worked there as helper and used to learn the work of mechanic. Around 1 and 1/2 months before the date of incident the accused Sehzaad Ali alias Aliur-Rehman also used to work as a mechanic in the above stated agency and he looks after the work of head mechanic. Around 1 and 1/2 months before the date of incident the owner Sanjay Guleria removed Sehzaad from the job due to some reasons. He came to the agency once or twice after removal from the job. On 10.02.2011 at around 4 pm in the evening I was working in the agency and along with me other mechanic Abid and Gulfaam were also there and owner Sanjay Guleria/his brother Anil and Lalita who sits on the counter were also present in the agency. In addition four-five customers were also present. At around 4.15 pm in the evening accused Sehzaad who is present before the court today came to the agency and assaulted the neck of owner Sanjay Guleria with a knife and stampede was caused there and after that Sehzaad ran after Lalita ran towards the way to godown and Sehzaad caught her in the vacant plot situated adjacent and Sehzaad attacked her with a knife and killed her. Sehzaad gave threat that whoever would interfere in between he would kill him after that Sehzaad came in the showroom and Sehzaad set the showroom on fire and everything burned in that fire including one motorcycle and scooty where were completely

burned. After that Sehzaad fled after snatching Discover motorcycle of a customer.....

Cross-Examination

Where Lalita got knife injuries that is a vacant plot. I do not know to whom it belongs. It might belong to Sanjay or maybe not. I do not know that any argument or conversation happened between accused Sehzaad and Lalita. I do not know as to what was the dispute in between Lalita, Sehzaad and Sanjay. I also do not know whether Sehzaad helped Lalita in getting a job in the workshop or not. On the day of incident fight and incident between Sehzaad and Sajay took half hour. At the time of fight and time of incident I was working in the workshop. I came outside after the incident of stabbing. After stabbing Sanjay he ran towards Lalita. Where did he get hold of the knife either it was taken from the workshop or snatched from Sanjay, I do not know. I went to the police station. I do not know that accused reached the police station already. The accused did not arrive in the Police station in front of me. I went to the police station to give information immediately after the incident along with a scootérist. The police reached the spot immediately. He again stated that police arrived at the spot before I returned from the police station. When police arrived at the spot other people also had arrived at the spot. I and other people who work in the workshop told the police about the incident. It is wrong to say that I have not seen the incident and I am deposing falsely.”

41. In his cross-examination, the witness was questioned at length regarding his presence at the workshop, the sequence of events, the manner in which the assault took place, and the conduct of the accused before and after the incident. Suggestions

were also put to him that the knife was originally in the hands of Sanjay Guleria and that the accused had merely snatched the same during an altercation. The witness, however, emphatically denied all such suggestions and consistently maintained that it was the accused who had arrived armed with the knife and had assaulted both the deceased *i.e.*, Sanjay and Lalita. The evidence of this witness is totally natural and trustworthy. Moreover, there existed no motive whatsoever for him to falsely implicate the appellant.

42. The third eye-witness, Gulfam (PW-13) was also employed at the workshop of Sanjay Guleria and gave categorical evidence about the assault made by the appellant on the neck of Sanjay Guleria and the subsequent assault on Lalita after chasing her to the empty plot nearby. Relevant portions from his testimony are extracted hereinbelow: -

“Examination-in-Chief

I used to work at Hariom Automobile Bajaj Showroom Selaqui in the year 2011, on the day of the incident *i.e.* on 10/02/2011, I was working in the agency. I used to work and learn as a mechanic in the said Bajaj showroom.

On the day of the incident, on 10/02/2011, the owner of Bajaj showroom Sanjay Guleria, Anil, Abid, Pradeep and the girl sitting at the counter named Lalita were present; Abid and Pradeep used to work as mechanics.

At the time of the incident, Sanjay Guleria was working on a motorcycle, then at around 4:00-4:15 o'clock, Sehzaad who is present in Court, came to the incident spot and he stabbed Sanjay Guleria with a knife on his neck and after that he ran towards Lalita, who went towards the empty plot from behind and he stabbed on her in the plot.

There was a stampede on the incident spot and the accused had threatened that he would kill anyone who came in between. After that the accused set the showroom on fire, in which my Scooty UA07E/5822 and one another motorcycle were also burnt. The Scooty belonged to my father's acquaintance Zahid Khan.

After that accused had snatched a customer's motorcycle from the incident spot and ran away, the papers of my Scooty were also in the Scooty and were burnt in the Scooty itself, the Scooty had completely burnt.”

43. The flimsy attempt made by the learned counsel for the appellant to discredit the testimony of this witness on the basis of minor discrepancies regarding the precise timing of the incident does not persuade us to doubt either his presence at the spot or the intrinsic worth of his testimony. Such minor variations are bound to occur in the narration of a traumatic and sudden occurrence witnessed by different persons and do not affect the substratum of the prosecution case.

44. The fourth eye-witness, Harish Chandra (PW-17), was an independent witness who had come to

the showroom for repair of his motorcycle at the relevant time. He gave a vivid and natural account of the occurrence and specifically identified the appellant as the assailant who attacked Sanjay Guleria, chased and stabbed Lalita, set the showroom on fire and fled away on the motorcycle of the witness. Relevant excerpts from the evidence of the witness are extracted hereinbelow:-

“Examination-in-chief

I had taken my motorcycle to Hariom Motorcycle Agency Selaqui at around 4:45 in the evening to show it as it was having some problem. I reached the showroom to get the motor cycle repaired. The incident is of 10/02/2011, I was standing outside the showroom, when a boy with a knife in his hand came into the showroom and attacked the owner of the showroom, who was working on a motorcycle at that time, at about 4- 4:45 o'clock, he stabbed him on the neck with a knife. I ran inside the showroom, the person, who sustained an attack on his neck ran outside, his blood splattered on my clothes, after this the accused ran inside with a knife on his hand and he stabbed knife on the girl who was working in the showroom at a vacant plot adjacent to the showroom, due to which she fell in the plot itself. When said he ran away after stabbing the girl. Then stated that he set fire on the showroom and ran away from the showroom after taking my motorcycle number UK07Z/5561. The boy and girl who were stabbed with knife died on the incident spot. After the incident, a huge crowd had gathered at the incident spot and policemen had also arrived. My motorcycle number UK07Z/5561 was seized by the Police on the same day at around 7:30-8 pm. Then, I went to Sahaspur

Police Station, the same day on 10/02/2011 at around 8-8:30 pm, the Police had taken under possession both the grip covers and seat cover of my recovered motorcycle which had blood stains on them.....

On 10/02/2011, my pants which were worn by me, which had blood splatters on it, were taken under possession by the police during the proceedings which took place at around 8-8:30 pm and its written proceedings were also conducted at the police station. A sealed bundle related to the case crime is before the Court, which was opened with the permission of the Court. A total of 9 small sealed bundles came out from inside the sealed bundle, out of which one sealed bundle on which is marked the pants worn by witness Harish Chandra related to Case Crime No. 23/11 Section 302, 436, 392, 506, 411 IPC and 4/25 Arms Act, it was opened with the permission of the Court. Inside of which a khaki coloured pants was obtained, on seeing which the witness stated that I had worn these pants on the day of the incident and there was blood splatters on it on the same day and the police had sealed his pants at the police station..... I had recognized the accused at the incident spot and I can recognize him when he will come before me. On seeing the accused Sehzad @ Ali-Ur-Rehman, standing in judicial custody, the witness stated that the accused is present in the Court and both of them were stabbed to death by this same person. I got my motorcycle released from the Court.”

45. The testimony of this witness is also unimpeachable as he was an independent customer having no prior acquaintance or enmity with the appellant. His presence at the spot was wholly natural and stands corroborated by the seizure of his

blood-stained clothes and the recovery of his motorcycle from the possession of the appellant. Despite cross-examination, nothing material could be elicited so as to discredit his version or cast any doubt upon the truthfulness of his testimony.

46. Sub-Inspector Manoj Kumar Mainwal, (PW-19) the first Investigating Officer, furnished cogent and consistent testimony which substantially corroborated the prosecution case. He deposed that upon receiving information, he immediately reached the spot with other police personnel and saw the showroom engulfed in flames with the blood-stained bodies of the deceased persons lying there. The witness further stated that the appellant was apprehended on the very same evening near the Selakui Rampur bridge and that the blood-stained knife along with the motorcycle used in the incident were recovered from his possession. Although the defence sought to create a doubt referring to the absence of blood marks inside the showroom, the witness satisfactorily explained that the same had been washed away during the fire-fighting operations carried out by the fire brigade. The Courts below found no material contradiction in his evidence so as

to discredit the fairness of the investigation or the prosecution version and rightly so in our opinion.

47. The Medical Jurist, Dr. Y.S. Thapiyal (PW-4), proved the post-mortem reports of both the deceased and gave a detailed description of the ante-mortem injuries sustained by them.

48. The description of injuries found on the body of deceased Lalita is as below:-

- “1. At the front of the neck incised wound of 13 cm x 9 cm was present which was above the Thyroid Cartilage. This wound had cut the Larynx, Treachea, wind pipe, food pipe, external and internal juglar vain and external and internal carotid artery and neck muscles.
2. Incised wound 3 cm x 2 cm muscle deep which was above the right breast.
3. Stab wound 3 cm x 2 cm x cavity deep which was on the right chest at the seventh intercostal space which was bleeding.
4. Stab wound 3 cm x 2 cm x cavity deep which was on the left side of the chest which at the fifth intercostal space.
5. On the left chest there were three incised wound having size 5x2 cm, 5x2 cm, 3 cm X 2 cm and were muscle deep.
6. On the left forearm incised wound was present which was 5 cm x 2 cm and were muscle deep.
7. Incised wound 10 cm x 2 cm on the palm of the left hand.
8. Incised wound 2 cm x 1 cm x muscle deep on the right elbow.
9. Incised wound 2 cm x 1 cm on the back of the right hand.
10. Incised wound 2 cm x 1 cm on the thumb of the left hand.

Internal Injuries: - wind pipe was severed; both lungs left and right were ruptured in which 1-2 litre dotted blood was present in pleural cavity. Heart was ruptured on which wound of 5 x 2 cm was present.”

49. The description of injuries found on the body of deceased Sanjay Guleria is as below:-

“Incised wound 30 cm x 10 cm was present on the right and front side of the neck which was bone deep. In this injury external and internal jugular vein was cut and external and internal carotid artery was cut and wind pipe (Larynx) and food pipe (pharynx) was cut and the muscles of the neck were also cut.”

50. The Medical Jurist (PW-4) categorically opined that the injuries sustained by both the deceased could have been caused by a sharp-edged weapon such as a knife. Insofar as deceased Sanjay Guleria was concerned, the witness specifically deposed that the external and internal jugular veins, carotid arteries, neck muscles, windpipe and food pipe had all been completely severed. According to the doctor, the said injury was extremely grave in nature and sufficient in the ordinary course of nature to cause death and was, in fact, capable of causing instantaneous death owing to rapid and profuse loss

of blood coupled with immediate obstruction/severance of the air passages.

51. Having regard to the facts and circumstances noted above, the consistent and unimpeachable testimony of the eye-witnesses, duly corroborated by the medical evidence, the testimony of the Investigating Officer and the attendant incriminating circumstances on record, coupled with the strong motive attributed to the appellant, we are of the considered opinion that the prosecution has proved its case as against the appellant beyond all manner of doubt. The conviction of the appellant as recorded by the learned trial Court and affirmed by the High Court, therefore, warrants no interference.

B. Sentencing:-

52. Coming to the aspect of the sentence of death awarded by the learned trial Court and affirmed by the High Court, we are required to examine whether the present case falls within the “rarest of rare” category as laid down by this Court in ***Bachan Singh*** (*supra*).

53. A consideration of the overall conspectus of the case as emanating from the record reveals that the appellant was working in the shop of the deceased

Sanjay Guleria and was removed from service on account of alleged misbehaviour with the deceased Lalita. The appellant comes from the lower echelon of society. Having lost his only source of livelihood, he had repeatedly and persistently requested Sanjay Guleria to take him back into service, but those requests went in vain. It is, therefore, discernible that the appellant was deeply frustrated on account of the loss of his source of livelihood and also probably, he felt insulted on account of being thrown out of employment on charges of misbehaviour. This context, while being wholly irrelevant to justify the crime, provides a degree of explanation for the mental state of the appellant that cannot be entirely eschewed from consideration while deliberating upon the quantum of sentence and the balancing act between death penalty and life imprisonment.

54. It is settled position of law that capital punishment can be only be awarded when the alternative of life imprisonment is unquestionably foreclosed. The exercise requires a careful and individualized balancing of the aggravating and mitigating circumstances, with the focus being not merely on the nature of the crime but equally on the

character of the criminal, his background, prior antecedents, socio-economic circumstances, and the possibility of reformation and rehabilitation.

55. We have carefully considered the aggravating circumstances in the present case. The murders were pre-meditated, the appellant having arrived at the showroom with a knife concealed on his person with a clear intention to cause harm. The offence was committed in broad daylight in a public place in the presence of several eyewitnesses. The appellant first killed his employer and thereafter chased and killed Lalita, the lady who had reported his misconduct, by inflicting multiple stab wounds upon her. Following the double murder, the appellant threatened the bystanders, set the showroom ablaze and escaped by snatching the motorcycle of the customer Harish Chandra (PW-17) while threatening to kill any person who attempted to apprehend him. These circumstances undoubtedly reflect a grave and heinous crime.

56. At the same time, we cannot be unmindful of the mitigating circumstances. The appellant had no prior criminal antecedents. The motive for the commission of the crime, howsoever reprehensible,

was traceable to a perceivable grievance arising from the termination of employment, his only source of livelihood and was not rooted in any communal, political, gratuitous, or preying motivation. The appellant belongs to the lower echelon of society and was driven, in part, by the frustration of repeated rejection of his pleas for re-engagement. There is no material on record establishing that the appellant poses a continuing threat to society or is incapable of reformation and rehabilitation.

57. On a careful and holistic consideration of the aforesaid aggravating and mitigating circumstances, we are of the opinion that the offence committed by the appellant, howsoever, brutal and heinous, cannot be brought within the purview of the “rarest of rare” category as expounded by this Court in **Bachan Singh** (*supra*). The double murder, though arising from a calculated premeditation, was fueled by the frustration of a man who had been deprived of his livelihood and whose repeated requests for revival of employment were rejected. It is thus, not a case exhibiting such extreme moral depravity or exceptional brutality as would shock the collective conscience of society so as to warrant the imposition

of death penalty. Hence, we are not inclined to sustain the capital punishment imposed upon the appellant by the trial Court and affirmed by the High Court.

58. The question that then falls for determination is as to the appropriate sentence required to be imposed upon the appellant. The governing principles in this regard were evolved by this Court in **Swamy Shraddananda v. State of Karnataka**¹³, wherein it was held that in cases falling short of the “rarest of rare” category, the Court may yet find the ordinary sentence of life imprisonment subject to remission to be inadequate having regard to the gravity of the offence. In such situations, instead of being compelled to choose between a sentence of 14 years’ imprisonment and death penalty, the Court may impose life imprisonment for a specified term without remission so as to ensure a punishment proportionate to the crime committed. The constitutionality of this principle was subsequently affirmed by a Constitution Bench in **Union of India v. V. Sriharan alias Murugan**¹⁴, which recognised

¹³ (2008) 13 SCC 767.

¹⁴ (2016) 7 SCC 1.

the power of constitutional Courts to prescribe a fixed period of incarceration without remission depending upon the nature of the offence and the surrounding circumstances. The relevant excerpts from **V. Sriharan** (*supra*) are extracted hereinbelow: -

“**104.** That apart, in most of such cases where death penalty or life imprisonment is the punishment imposed by the trial court and confirmed by the Division Bench of the High Court, the convict concerned will get an opportunity to get such verdict tested by filing further appeal by way of special leave to this Court. By way of abundant caution and as per the prescribed law of the Code and the criminal jurisprudence, we can assert that after the initial finding of guilt of such specified grave offences and the imposition of penalty either death or life imprisonment, when comes under the scrutiny of the Division Bench of the High Court, **it is only the High Court which derives the power under the Penal Code, which prescribes the capital and alternate punishment, to alter the said punishment with one either for the entirety of the convict's life or for any specific period of more than 14 years, say 20, 30 or so on depending upon the gravity of the crime committed and the exercise of judicial conscience befitting such offence found proved to have been committed.**

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.

106. Viewed in that respect, we state that the ratio laid down in *Swamy Shraddananda (2)* [*Swamy Shraddananda v. State of Karnataka*, (2008) 13 SCC 767] that a special category of sentence; instead of death; for a term exceeding 14 years and put that category beyond application of remission is well founded and we answer the said question in the affirmative. We are, therefore, not in agreement with the opinion expressed by this Court in *Sangeet v. State of Haryana*, (2013) 2 SCC 452 that the deprivation of remission power of the appropriate Government by awarding sentences of 20 or 25 years or without any remission as not permissible is not in consonance with the law and we specifically overrule the same.”

(Emphasis Supplied)

59. The principles governing determination of such fixed-term sentence were comprehensively considered by a three-Judge bench of this Court in ***Navas @ Mulanavas v. State of Kerala***¹⁵. After surveying a series of earlier precedents on the subject, this Court observed that fixation of the minimum term of incarceration is essentially an exercise in proportionality, requiring due consideration of factors such as the nature of the

¹⁵ 2024 INSC 215

offence, number of victims, extent of injuries, motive, degree of premeditation, criminal antecedents, possibility of reformation, socio-economic background and conduct of the convict. The Court further noticed that in a majority of cases, applying the ***Swamy Shraddananda*** principle, the period of compulsory/fixed term incarceration has generally ranged between 20 and 35 years, with 25 years being frequently considered appropriate in cases involving double murder bereft of exceptionally aggravating circumstances. In the facts of that case, involving murder of two persons arising out of personal grievance and absence of criminal antecedents, the sentence of death was accordingly commuted to imprisonment for life with a minimum term of 25 years without remission.

60. Applying the aforesaid principles to the facts of the present case, we find that the aggravating circumstances are that the crime was premeditated; two persons both known to the appellant were killed in cold blood; the manner of assault was brutal and; the appellant thereafter indulged in acts of arson and threatened those present at the spot. At the same time, certain mitigating circumstances also deserve

due reference. The appellant had no prior criminal antecedents; the offence arose out of personal frustration following loss of livelihood; he belongs to the lower strata of the society with a modest socio-economic background and; there is no material to indicate that he is beyond the scope of reformation.

61. Balancing the aforesaid circumstances, we are of the considered opinion that the ends of justice would be adequately met by commuting the sentence of death to imprisonment for life which shall enure to a fixed term of 25 (twenty-five) years without remission. Such a sentence, in our view, would be proportionate to the gravity of the offence while at the same time preserving the possibility of reformation and rehabilitation of the appellant.

Conclusion:-

62. As a result of discussion made hereinabove, the conviction of the appellant as recorded by the trial Court and affirmed by the High Court, is upheld. The sentences imposed in respect of offences punishable under sections 392, 436, 506 and 411 of the IPC and Section 25/4 of the Arms Act are also affirmed.

63. However, the sentence of death awarded for the offence punishable under Section 302 of the IPC is

commuted to imprisonment for life which shall enure for a fixed term of 25 (twenty-five) years without remission. The appellant shall also pay a fine of Rs.25,000/- (Rupees Twenty-Five Thousand only); in default of payment of fine, he shall undergo further simple imprisonment for a period of six months.

64. The appeals are partly allowed as above.

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

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

.....**J.**
(VIJAY BISHNOI)

NEW DELHI
MAY 06, 2026.