

Research Paper on Death Penalty | India (13577 Words)

By Pragati Ghosh

Research Paper on Death Penalty (Capital Punishment, 13577 Words)

The magistracy has more often than not, used Section 354(3) of the Code of Criminal Procedure to justify its stand either in support of or against the award of capital punishment. The abolitionists see this provision a green signal for dilution of capital punishment while for the retentionists the special reasons contemplated by Section 354(3) implicitly suggest that death sentence is legally and constitutionally permissible.

It must, however, be noted that what appears to one Judge as extenuating circumstances justifying commutation of death sentence to that of life-imprisonment, may not be necessarily so with the other Judge. Thus in *Kunja Kunja Janardhanam v. State of Andhra Pradesh*, the accused, infatuated by the charm of a village girl, committed brutal murder of his innocent wife and two minor sons while they were asleep in dead of night.

The girl, on her part, had warned the accused through her letters not to destroy his happy family life by the illicit intimacy but the accused paid no heed and chose to commit triple murder with extreme depravity. Though the majority by 2: 1 commuted death sentence to that of imprisonment for life, Mr. Justice A.P. Sen, in his dissenting judgment disagreed with the majority and, observed:

"The accused who acted as a monster, did not even spare his two innocent minor children in order to get rid of his wife and issues through her; if death sentence was not to be awarded in a case like this I do not see the type of offences which call for death sentence."

A perusal of some of the Supreme Court decisions involving award of death penalty would reveal that sudden impulse or provocation uncontrollable hatred arising out of sex indulgence, family feud or land dispute, infidelity of wife or sentence of death hanging over the head of the accused for a considerable long period of time due to law's delay, have been accepted as extenuating circumstances justifying lesser penalty of life imprisonment instead of death sentence. Mr. Justice Krishna Iyer of the Supreme Court of India, however, made it clear in *Rajendra Prasad v. State of U.P.*, that where the murder is deliberate, premeditated, cold-blooded and gruesome and there are no extenuating circumstances, the offender must be sentenced to death as a measure of social defence.

The pros and cons of "life or death" sentence have been extensively dealt with by the Supreme Court of India in *Rajendra Prasad's* case. Therefore it would be pertinent to state the facts of the case to analyse the entire issue in its proper perspective.

The accused in the instant case was a "desperate character" who had undergone sentence of imprisonment for life and was released on Gandhi Jayanti day in 1972, a few days prior to the occurrence. On 25th October, 1972 the accused suddenly attacked one Rambharosey and dealt several blows on vital parts of his body with knife.

Rambharosey released himself from the grip of the accused and ran inside his house and bolted the door. The accused chased him all the way with the blood-stained knife and knocked at the door asking him to open it. Meanwhile, the deceased Mansukh came and tried to entreat the accused not to assault Rambharosey.

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