

## **Topic: Constitutionality Of Death Penalty**

Name of the case: Bachan Singh v. State of Punjab, AIR 1980 SC 898

Bench: Justice Y Chandrachud, Justice A Gupta, Justice N Untwalia, Justice P Bhagwati, Justice R Sarkaria

Theme question before court: reasonableness of death penalty and analysis of view expressed in Jag Mohan and Rajendra case

Ratio: The Supreme Court held that the provision of death penalty, as alternative punishment for murder in Section 302, IPC, is not unreasonable and is in public interest. This Article clearly brings out the implication that the founding father recognised right of the state to deprive a person of his life or personal liberty in accordance with the fair, just and reasonable procedure established by valid law. The procedure provided in the Criminal Procedure Code for imposing capital punishment for murder cannot be said to be unfair, unreasonable and unjust. The court, however, emphasised that the death penalty is an exception rather than the rule and it ought to be imposed only in the 'gravest of the cases' of extreme culpability or in the rarest of the rare cases when the alternative option is unquestionably foreclosed.

Development in the concept

Name of the case: Machhi Singh v. State of Punjab, AIR 1989 SC 947

Bench: Justice MP Thakkar, Justice Syed Murtuza Fazalali Ali, Justice A Varadarajan

Ratio: The Supreme Court has emphasised that death penalty need not be inflicted except in 'gravest of the cases' of extreme culpability and that life imprisonment is the rule and death sentence is an exception. The court has emphasised that death sentence is to be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to circumstances of crime, and provided that the option to impose sentence of life imprisonment cannot be conscientiously exercised having regard to the nature and circumstances of the crime and all the relevant circumstances.

Further, the Supreme Court has formulated broad guidelines for determining the 'rarest of the rare' cases in which murderers should be awarded the death penalty instead of life imprisonment. The judges must ask themselves these two questions for deciding whether a murder case falls in the category of rarest of the rare cases:

Whether there is something uncommon about the crime which renders a life imprisonment sentence inadequate and calls for a death sentence?

Whether the nature of the crime are such that there is no alternative but to impose the death sentence even after recording maximum weightage to the mitigating submissions which speaks in favour of the offender?