Deen Dayal Tiwari vs State Of Uttar Pradesh on 16 January, 2025

Author: Vikram Nath

Bench: Sanjay Karol, Vikram Nath

2025 INSC 111

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.2220-2221 OF 2022

DEEN DAYAL TIWARI …APPELLANT(S)

VERSUS

STATE OF
UTTAR PRADESH …RESPONDENT(S)

ORDER

1. Heard learned counsel for the parties and perused the material placed before us.

2. The present Criminal Appeals arise out of the impugned Judgment and final Order dated 09.05.2022 passed by the High Court of Judicature at Allahabad (Lucknow Bench) in Capital Case No. 01 of 2014 and Criminal Appeal No. 1776 of 2016, whereby the High Court confirmed the conviction and the sentence of death imposed upon the Appellant by the learned Additional District & Sessions Judge, Court No.5, Faizabad, in Sessions Trial No. 24 of 17:00:59 IST Reason:

> 2013 (arising out of Case Crime No. 748 of 2011, under Section 302 of the Indian Penal Code, 1860).
>
> 3. The relevant facts are summarized hereunder:
>
> 3.1 The Appellant, Shri Deen Dayal Tiwari, resided in village Pure Brijlal Tiwari Moiya Kapurpur, Police Station Pura Kalandar, District Faizabad (now Ayodhya), Uttar Pradesh. He was married to one Smt. Siyallali and had four minor daughters, namely (i) Mani, (ii) Riya, (iii) Guddan, and (iv) Mahima.

3.2 Incident day : In the intervening night of 11/12.11.2011, at around 2:30 a.m., the Appellant's brother, PW-1 (Shri Dinanath Tiwari), and PW-1's wife, PW-2 (Smt. Suneeta alias Anita), purportedly heard frantic cries of "bachao-bachao" (save-save) emanating from the Appellant's house, which was adjacent to their own. Alarmed by these cries, PW-1 and PW-2 rushed towards the Appellant's house. They noticed that the door to the Appellant's room was locked from inside. Despite knocking and threatening to break the door, it was not opened.

3.3 PW-1's Version/Lodging of FIR:

According to PW-1, when they continued to demand that the door be opened, the Appellant emerged briefly from within, allegedly holding a blood-stained axe, and warned them to leave or face the risk of being killed. He then went back inside and locked the door again. Sometime thereafter, PW-1 proceeded to the Police Station Pura Kalandar, located about 14–15 km away, and claims to have lodged a written complaint (Ex. Ka-1) at around 6:10 a.m. on 12.11.2011. A formal FIR (Case Crime No. 748 of 2011) under Section 302 IPC was registered against the Appellant at the said police station.

3.4 Arrival of Police & Arrest of the Appellant: On receiving information about the gruesome incident, PW-5 (Station Officer, Ajay Prakash Mishra) reached the Appellant's house on the morning of 12.11.2011. Villagers had assembled in large numbers. The inner room, where the Appellant allegedly remained, was bolted. PW-5, with the help of the villagers, forced the door open and found the Appellant inside the room, holding an axe with fresh blood stains on it. The Appellant was immediately apprehended on the spot. Inside the same room, five bodies— those of the Appellant's wife (Smt. Siyallali) and their four minor daughters—were lying in pools of blood.

3.5 Discovery & Recovery of Weapons:

According to the prosecution, the Appellant, upon interrogation by PW-5, confessed to having killed his wife and daughters. On the Appellant's pointing out, the police recovered two knives from the same room. The axe, initially seen in the Appellant's hand, was also seized. Recovery memos (Ex. Ka-7, Ka-8, and Ka-9) pertaining to the axe, knives, blood-stained clothes, and soil samples were prepared by PW-5 in the presence of witnesses, including PW-3 (Shri Visheshwar Nath Mishra).

3.6 Condition of the Deceased & Panchayatnama: PW-5 prepared separate inquest reports (panchayatnama) for each of the five deceased. Photographs were taken, and blood-stained soil as well as plain soil samples were collected from the place of occurrence. The bodies were dispatched for postmortem examination at the District Women Hospital, Faizabad, between 1:00 p.m. and 4:00 p.m. on 12.11.2011.

3.7 Postmortem Findings (PW-4, Dr. S.K. Shukla): Multiple incised and lacerated wounds were found on each deceased victim—indicating that at least one sharp-edged weapon (axe/knives) had been used. Some injuries also suggested blunt force or wide-edged impact, but overall, the cause of death in each case was determined to be shock and hemorrhage due to the ante-mortem injuries. The estimated time of death for all five deceased aligned with the early morning hours of 12.11.2011, broadly corroborating the prosecution's timeline.

3.8 Charge-Sheet & Commencement of Trial: Pursuant to the investigation, PW-5 filed a charge-sheet against the Appellant under Section 302 IPC before the competent Magistrate, who committed the case to the Court of Sessions.

The learned Additional District & Sessions Judge, Court No.5, Faizabad, proceeded with Sessions Trial No. 24 of 2013. During trial, the prosecution examined five witnesses:-

• PW-1, the informant and younger brother of the Appellant;

• PW-2, wife of PW-1, who was present near the scene;

• PW-3, an independent witness who reached the spot after receiving a call around 2:30–3:00 a.m.;

• PW-4, Dr. S.K. Shukla, who conducted the postmortem; and • PW-5, Investigating Officer (Station Officer).

• PW-1 and PW-2 testified about hearing the cries from the Appellant's house and seeing the Appellant with a blood-

stained axe. PW-3 corroborated the fact that the Appellant was found inside his locked room, walking around with the axe, while the five bodies lay on the floor.

• PW-5 deposed on the arrest of the Appellant at the spot, the recovery of incriminating weapons, and the subsequent investigative steps.

3.9 Appellant's Defence: In his statement recorded under Section 313 of the Code of Criminal Procedure, the Appellant denied committing the murders. He contended that he was sleeping in the barn (khalihan) to guard paddy on the night of the incident and that unknown miscreants killed his wife and children. The Appellant also alleged false implication by his brother (PW-1) and certain villagers, ostensibly due to jealousy and property disputes.

3.10 Trial Court Verdict: By Judgment and Order dated 29.01.2014/30.01.2014, the learned Additional District & Sessions Judge, Court No.5, Faizabad, convicted the Appellant under Section 302 IPC for the murders of his wife and four minor daughters. The Trial Court awarded the death penalty, observing that the case fell under the "rarest of rare" category.

3.11 Appeal & Confirmation (High Court):

The Appellant preferred Criminal Appeal No. 1776 of 2016 before the High Court of Judicature at Allahabad (Lucknow Bench). Additionally, the Trial Court made a reference (Capital Case No. 01 of 2014) for confirmation of the death sentence. On 09.05.2022, the High Court dismissed the Appellant's appeal, confirmed the findings of guilt, and upheld the sentence of death, concurring with the Trial Court that the murders were committed in an extremely brutal and diabolical manner.

4. Aggrieved by the High Court's Judgment and final Order, the Appellant approached this Court by way of the present Criminal Appeal challenging the conviction as well as the sentence imposed upon.

5. Mr. Shree Singh, the learned counsel for the Appellant , submitted a broad range of contentions challenging both the conviction and the sentence of death. The principal arguments are summarized hereunder:

5.1. Entirely Circumstantial Evidence It is urged that there is no direct or ocular evidence linking the Appellant to the crime. The prosecution's case is premised solely on circumstantial evidence. Learned counsel contends that the chain of circumstances is far from complete and cannot form the basis for a conviction According to the Appellant, the prosecution failed to establish each link of the chain in a manner that unequivocally points to the Appellant's guilt and excludes every other hypothesis.

5.2. Contradictions & Lacunae in Ocular Evidence The Appellant highlights material inconsistencies in the testimonies of PW-1 (the informant and brother of the Appellant), PW-2 (the wife of PW-1), and PW-3 (an independent witness). It is argued that PW-1 gave multiple versions regarding the events of the night and subsequent lodging of the FIR, rendering his account unreliable. Likewise, PW-2's and PW-3's depositions are said to suffer from contradictions about who first arrived at the scene, how the door was opened, and when the police reached. These inconsistencies, according to learned counsel, create serious doubts about the veracity of the prosecution story.

5.3. FIR Allegedly Ante-Timed- The Counsel for the appellant questions the authenticity of the FIR (Case Crime No. 748 of 2011), contending that it was lodged after the Appellant's arrest, yet shown to have been registered at 6:10 a.m. on 12.11.2011. Learned counsel submits that no credible explanation has been given as to how the police arrived at the crime scene well before the FIR was purportedly lodged, thereby indicating that the FIR was manipulated to suit the prosecution's narrative.

5.4. Inadmissibility of Confessional Statement- The Appellant's alleged confession to the police is assailed as inadmissible under Sections 25 and 26 of the Indian Evidence Act, 1872, particularly since it was made while in police custody. Even if such a

statement had been made, learned counsel stresses that it must be corroborated by unimpeachable independent evidence, which is lacking in the present case.

5.5. Unreliable Recovery of Weapons- The Appellant further contends that the purported recovery of the axe and two knives is fraught with discrepancies. No independent witness has credibly deposed that the Appellant led the police to discover these items from a concealed location.

Rather, the weapons were allegedly lying in plain sight, thereby raising the possibility of planting or fabrication. It is further emphasized that no disclosure memo bearing the Appellant's signature has been produced, undermining the credibility of the prosecution's recovery memos.

5.6. Gaps in Forensic Evidence- Learned counsel submits that the prosecution has not conclusively established that the bloodstains on the weapons or clothes belong to the deceased. In the absence of any serological report confirming that the blood was human and matched the victims, the link between the Appellant and the weapons remains unproved. Moreover, the presence of certain injuries (as noted by PW-4, the autopsy doctor) that could have been caused by a broader instrument (like a stick) further casts doubt on the theory that only an axe and knives were used.

5.7. Possibility of Alibi- The Appellant has consistently maintained that he was sleeping in the barn (khalihan) to protect his paddy at the time of the murders, and that unknown miscreants entered the house and killed his wife and daughters. Learned counsel argues that the prosecution failed to disprove this defence or to show why it was impossible for the crime to have been committed by others.

5.8. Sentencing: Death Not Warranted- Without prejudice to the plea of innocence, learned counsel assails the imposition of capital punishment as violative of guidelines laid down in Bachan Singh v. State of Punjab (1980) 2 SCC 684 and subsequent decisions, including Machhi Singh v. State of Punjab, (1983) 3 SCC 470 and Manoj & Ors. v. State of Madhya Pradesh 2022 SCC OnLine SC 677. It is urged that the Courts below overlooked mitigating factors, such as the Appellant's age, lack of criminal antecedents, and possibility of reformation. Death penalty is said to be an exception, not the norm, and must be imposed only when the alternative of life imprisonment is "unquestionably foreclosed."

6. Learned Counsel for the State of Uttar Pradesh has opposed the appeal and supported the concurrent findings of the Trial Court and the High Court, making the following submissions:

6.1 Gravity and Heinous Nature of Offence-

It is contended that the present case involves an extremely grave and heinous crime, wherein the Appellant brutally murdered his wife and four minor daughters using an axe. The very nature of this offense, committed against helpless and vulnerable family members, underscores the severity and depravity of the crime.

6.2 Clear Evidence of Guilt- The prosecution relies on the fact that PW-1 (the Informant and the Appellant's own brother) and PW-2 reached the Appellant's house upon hearing cries for help. Despite the door being locked, the Appellant is stated to have briefly emerged with a blood-stained axe, threatened them, and retreated inside. Subsequently, PW-1 and PW-5 (Investigating Officer) forced the door open and found the Appellant walking in the room while holding the axe. According to learned counsel, the evidence on record, both oral and documentary, amply demonstrates that the Appellant alone is responsible for committing the murders. The Trial Court and High Court have rightly appreciated these facts to conclude the Appellant's guilt under Section 302 IPC.

6.3 Recovery of Weapons & Medical Corroboration- The prosecution points out that the murder weapon (axe), allegedly used by the Appellant, was recovered from him at the spot, and two knives were also discovered from the same room. These recoveries are said to be corroborated by the postmortem reports (PW-4, Dr. S.K. Shukla), indicating that the injuries on the deceased were consistent with the use of sharp-edged weapons. Forensic and medical evidence collectively establish that the immediate cause of death was massive blood loss resulting from incised wounds caused by an axe or knives, which were seized in the presence of witnesses (PW-3 and PW-5).

6.4 Witness Credibility and Corroboration- Learned counsel refutes the suggestion that prosecution witnesses are unreliable. Minor discrepancies, if any, are argued to be non-fatal. Relying on settled precedents, it is submitted that minor contradictions do not vitiate the core prosecution story when the overall version is consistent and corroborated by medical and forensic evidence. Moreover, PW-1's version is termed natural and credible: upon discovering such a grisly scene involving his own close relatives, PW-1 fainted, further highlighting the horrific nature of the incident.

6.5 Concurrent Findings of Fact- Both the Trial Court and the High Court have carried out a thorough examination of the evidence, including the testimonies of PW-1, PW-2, PW-3, and the postmortem reports of PW-4. According to the State, these findings cannot be characterized as perverse or contrary to law. Therefore, in the absence of any new or exculpatory evidence, no interference is warranted by this Court.

6.6 Case Falling Under 'Rarest of Rare'- Emphasizing the brutality and the sheer number of victims: five murders committed in one night within the confines of the Appellant's home, the State asserts that this case satisfies the guidelines laid down in Bachan Singh (supra) and Machhi Singh (supra) guidelines for awarding the death penalty. The High Court specifically noted that the Appellant's conduct and the diabolical manner of execution rendered life imprisonment insufficient. The Respondent supports this conclusion, arguing that the Appellant's actions shock the collective conscience of society and mark him as a menace.

6.7 Compliance with Manoj & Ors. v. State of Madhya Pradesh (2022 SCC OnLine SC 677- Learned counsel apprises the Court that reports from the Superintendent of District Jail and the Probation Officer have been placed on record in compliance with the directive of this Hon'ble Court. While the Appellant's prison conduct is reported as "satisfactory," the State insists that these factors do not outweigh the magnitude, brutality, and impact of the crime.

7. We have heard learned counsel on both sides and carefully perused the evidence on record, the findings of the Trial Court, and the impugned judgment of the High Court. The primary question that arises at this stage is whether the prosecution has established, beyond reasonable doubt, that the Appellant is guilty of the offence punishable under Section 302 of the Indian Penal Code, 1860.

8. It is not in dispute that the prosecution case rests predominantly on circumstantial evidence. The law on conviction based on circumstantial evidence is well-settled: the prosecution must establish each circumstance forming a complete chain that unerringly points to the guilt of the accused and excludes every other hypothesis of innocence. We have therefore tested the circumstances put forth by the prosecution to determine whether the chain of events proves the guilt of the Appellant beyond reasonable doubt.

9. The relevant factors in the present case include: (i) the fact that five deceased persons (the Appellant's wife and four minor daughters) were found lying in a pool of blood inside the Appellant's house; (ii) the prompt presence of PW-1, PW-2, and PW-3 at or near the scene; (iii) the Appellant's own presence, allegedly armed with a blood-stained axe; (iv) the subsequent recovery of incriminating weapons; and (v) the Appellant's failure to furnish a satisfactory explanation under Section 106 of the Indian Evidence Act.

10. FIR & Timing- The defense contends that the FIR was ante-timed and lodged after the Appellant's arrest. However, from the record, including the General Diary (GD) entries, it transpires that PW-1's written complaint was registered at around 6:10 a.m. on 12.11.2011. That timeframe is not so delayed or unusual as to cast inherent doubt on the entire prosecution case, especially given that the place of occurrence is about 14–15 km from the police station. It is also relevant that the witnesses had to gather sufficient courage and assistance to even approach the house, which the Appellant had allegedly locked from inside. Viewed cumulatively, we do not find any material or glaring inconsistency to conclude that the FIR was fabricated or manipulated merely on the ground of timing.

11. Presence of the Appellant and Discovery of Bodies- PW-1 (brother of the Appellant), PW-2 (wife of PW-1), and PW-3 (independent witness) have uniformly deposed that, upon hearing screams from inside the Appellant's house on the night of 11/12.11.2011, they rushed there. The door was said to be locked from inside, and when threatened with breaking it open, the Appellant himself emerged, allegedly holding an axe stained with fresh blood.

Shortly thereafter, PW-5 (the Investigating Officer) arrived with other police personnel. The room was forcibly opened in the presence of villagers, and the dead bodies of the Appellant's wife and four minor daughters were found lying therein. The Appellant was still present inside, apprehended on the spot, and allegedly in possession of the same blood-stained axe.

Medical Evidence -PW-4 (Dr. S.K. Shukla), who conducted the postmortem examinations, found multiple incised and lacerated injuries on each of the deceased, consistent with weapons like an axe and knives. The stated cause of death was "shock and hemorrhage" due to these ante-mortem injuries. It is contended on behalf of the Appellant that the presence of certain blunt-force injuries

creates a discrepancy in the prosecution's version. However, a closer look at the postmortem findings reveals that these blunt-force injuries can be attributed to the blunt side of the very same axe which caused the incised wounds. Consequently, the medical evidence remains consistent with the prosecution theory that all the injuries, including both sharp-edged and blunt trauma, were inflicted by the same weapon recovered at the scene, thus reinforcing the conclusion that the assault was brutal and matched the nature of the weapons seized.

12. Recovery of Incriminating Material- The Appellant questions the validity of the recovery memos, contending that the weapons could have been planted. However, the evidence of PW-3 and PW-5 details the seizure of the blood-stained axe from the Appellant's hand and the subsequent recovery of two knives from within the same room on the Appellant's pointing out. While the Appellant argues that his signature on the recovery memos is absent, such a procedural gap by itself does not necessarily vitiate the entire process. The presence of independent witness PW-3 at the spot, as well as the contemporaneous nature of the recovery, lends credence to the prosecution's version.

13. Alibi & Section 106 of the Evidence Act- The Appellant's principal defense is that he was sleeping in his barn (khalihan) at the time of the murders, thereby suggesting a possibility that unknown miscreants killed his family. However, he has produced neither documentary evidence nor any witness to substantiate this claim. Once it is established that the Appellant was found at the scene and his family members were discovered murdered in the very room to which he had access and control, the burden to explain how the murders occurred within his locked premises shifts to him under Section 106 of the Evidence Act. His failure to offer a plausible explanation—particularly when there is no material on record supporting his alibi— fortifies the prosecution's case.

14. Reliability of Prosecution Witnesses- The defense asserts inconsistencies and contradictions in the testimonies of PW-1, PW-2, and PW-3. We find that most of these so-called contradictions are minor in nature, pertaining to peripheral or non-critical details such as exact times or the manner in which the villagers gathered. Material particulars, namely, that the Appellant was inside the house, armed with a blood-stained axe, while his wife and daughters lay murdered- are consistently spoken to by these witnesses. Minor discrepancies do not, in our view, vitiate the core narrative.

15. Motive- An additional factor that emerges from the record is the Appellant's alleged suspicion regarding his wife's moral character. The prosecution claims that the Appellant believed his wife was engaged in an illicit relationship, which caused frequent discord within the family. This suspicion is said to have motivated the Appellant to eliminate his wife, and in the course of events, he also killed his four minor daughters when they intervened or witnessed the assault. Though the presence of a motive is not an indispensable requirement for conviction in every case, proof of motive here reinforces the prosecution's version that the Appellant acted with a deliberate intention to commit these crimes.

16. Chain of Circumstances- Upon a cumulative evaluation of the circumstances, it appears that:

- (i) the victims were last seen alive in the Appellant's exclusive custody (his own house) on that fateful night, (ii) the Appellant was found inside the same house

> soon after the murders, with a blood-stained axe, o (iii) the postmortem reports confirm cause of death by repeated blows of sharp-edged weapons, and o (iv) no satisfactory explanation has been provided by the Appellant to displace the inference of guilt.

We are therefore of the considered view that these circumstances form an unbroken chain pointing unmistakably to the Appellant as the perpetrator of the crime.

17. In light of the evidence in its entirety, we find no cogent basis to disturb the concurrent findings of the Trial Court and the High Court that the Appellant committed the murders of his wife and four minor daughters in the intervening night of 11/12.11.2011. Consequently, we hold that the conviction of the Appellant under Section 302 IPC is fully justified and does not warrant any interference at this stage.

18. The only question that remains is whether the present case falls under the rarest of rare category so as to warrant the imposition of the death penalty. We have carefully weighed the aggravating and mitigating circumstances, in light of the sentencing framework delineated in the judgements of Bachan Singh v. State of Punjab (Supra) , and Machhi Singh (supra), and subsequent precedents.

19. Aggravating Factors 19.1 Brutal multiple murders: The Appellant has been found guilty of murdering five persons—his own wife and four minor daughters. This crime, by its very nature, is undeniably grave and horrific.

19.2 Position of trust and vulnerability of victims: The deceased were defenseless, particularly the four minor daughters, placing a moral onus on the Appellant to protect them. Instead, they were brutally killed in their own home.

19.3 Impact on societal conscience:

> Undeniably, such a crime of multiple homicides within a family can shock the collective conscience of the society.

20. Mitigating Factors 20.1 Absence of previous criminal antecedents: The record does not disclose any prior conviction or past criminal history on the part of the Appellant.

20.2 Reports suggesting scope for reformation: In compliance with our directions, the State has placed on record the report of the Superintendent of District Jail, Ayodhya. It indicates that the Appellant's behavior in custody has been "satisfactory" and "normal," noting that he has been performing assigned duties (such as cleaning/sweeper tasks) without any adverse conduct. While prison conduct alone is not determinative, it is a factor supportive of the possibility of reformation.

20.3 Socio-economic and personal circumstances: Nothing on record suggests that the Appellant is incapable of rehabilitation. He does not appear to be a hardened criminal who poses an enduring menace to society.

20.4 Possibility of commutation- In several cases involving multiple homicides, this Court has nonetheless commuted the death penalty to life imprisonment, acknowledging the potential for reformation or considering other mitigating factors. In State of Uttar Pradesh v. Krishna Master & Ors., (2010) 12 SCC 324, the accused wiped out almost an entire family, six persons on the ground of saving "honour." Despite the heinous nature of the crime, this Court commuted the death sentence to rigorous imprisonment for life along with a fine. Similarly, in Prakash Dhawal Khairnar (Patil) v. State of Maharashtra, (2002) 2 SCC 35, the Appellant therein had annihilated his brother's entire family, but this Court held that although the crime was heinous, it could not be classified as 'rarest of rare.' It was emphasized that there existed a possibility of reforming the offender.

21. Guided by the above facts, we must scrutinize not only the nature of the offence but also the totality of the offender's circumstances. In the instant case, while the offence is undoubtedly brutal, certain mitigating factors, especially the Appellant's lack of criminal antecedents and his reported conduct in prison, tilt the scales in favour of commutation. There is no material demonstrating that he would remain a perpetual threat to society or that he is beyond reform. Indeed, the Probation Officer's input and the Superintendent of District Jail's report show a potentially reformable individual. Further, this Court has consistently recognized that the imposition of capital punishment is an exception and not the rule. Even where multiple murders have been committed, if there is evidence or at least a reasonable possibility of reform, a lesser sentence must be preferred.

22. Weighing the totality of circumstances and having regard to the legal principles discussed above, we are of the view that while the crime is heinous and deserves the highest degree of condemnation, it does not meet the threshold of "the rarest of rare" so as to irrevocably foreclose the option of life imprisonment.

23. This Court, while exercising its appellate jurisdiction under Article 136 of the Constitution of India, possesses the authority to scrutinize not only the conviction of an accused but also the appropriateness of the sentence imposed. As articulated in the principles laid down in Swamy Shraddananda 1, the power to impose or modify a sentence within the prescribed framework of the Penal Code is exclusively vested in the High Court and this Court. The alternate punishment for offences punishable by death, such as imprisonment for a specific term exceeding 14 years or until the natural life of the convict, remains within the judicial conscience of this Court and the High Court. This ensures that the gravity of the offence, the mitigating and aggravating circumstances, and the possibility of reformation are thoroughly assessed before (2008) 13 scc 767 irrevocable sentences such as capital punishment are affirmed. Therefore, the commutation of a death sentence to imprisonment for the remainder of the convict's natural life, as an alternative to death, is well within the judicial prerogative of this Court and adheres to the constitutional mandate of ensuring justice. The Constitution Bench of this court in Union of India v. V. Sriharan (2016) 7 SCC 1 have propounded upon these principles. The relevant paras from the same have been reproduced hereunder:

> "103. In fact, while saying so we must also point out that such exercise of power in the imposition of death penalty or life imprisonment by the Sessions Judge will get the scrutiny by the Division Bench of the High Court mandatorily when the penalty is

death and invariably even in respect of life imprisonment gets scrutinised by the Division Bench by virtue of the appeal remedy provided in the Criminal Procedure Code. Therefore, our conclusion as stated above can be reinforced by stating that the punishment part of such specified offences are always examined at least once after the Sessions Court's verdict by the High Court and that too by a Division Bench consisting of two Hon'ble Judges.

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 (2) v. State of Karnataka, (2008) 13 SCC 767 : (2009) 3 SCC (Cri) 113] 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 [Sangeet v. State of Haryana, (2013) 2 SCC 452 : (2013) 2 SCC (Cri) 611] that the deprival 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."

24. In the result, while confirming the conviction of the Appellant for the offence punishable under Section 302 IPC, we consider it appropriate to commute the death sentence to one of life imprisonment till his last breath.

25. The Trial Court's and the High Court's concurrent finding of guilt is thus upheld. However, the sentence of death is modified to imprisonment for life until the end of the Appellant's natural lifespan.

26. The appeals stand partly allowed as above.

.....,J.

(VIKRAM NATH) .....,J.

(SANJAY KAROL) .....,J.

(SANDEEP MEHTA) NEW DELHI;

JANUARY 16, 2025.