

Javed Ahmed Abdulhamid Pawala vs State Of Maharashtra on 20 April, 1983

Equivalent citations: AIR1983SC594, 1983(1)SCALE410, (1983)3SCC39, AIR 1983 SUPREME COURT 594, 1983 (3) SCC 39, (1983) MAHLR 76, 1983 SCC (CRI) 559, 1983 UJ(SC) 569

Bench: D.A. Desai, O. Chinnappa Reddy

JUDGMENT

chinnappa Reddy, J.

1. This appeal was admitted on the question of sentence only. Having considered the circumstances of the case and despite our reluctance to impose the sentence of death except in the 'rarest of rare' cases, we are unable to perceive any ground for substituting the sentence of life-imprisonment for death in the present case. The appellant has been convicted of multiple murders. He killed his sister-in-law, Shahinbi, aged about 23 years, his little niece Sanayya, aged about 3 years, his baby-nephew Shahabaj, aged 1 1/2 years and a child-servant, Jaitun, aged about 7 or 8 years. The motive for the murder was gain. He wanted the ear-tops and the bangles worn by his sister-in-law. It appears he had earlier approached his brother Asmat (Shahinbi's husband and father of Sanayya and Shahbaj) to give him a sum of Rs. 5,000/- in order that he may start some business. When his brother expressed his inability to give him any money as he had none, he suggested that his sister-in-law's ornaments could be sold. Shahinbi was, however, not willing to part with her ornaments. On the night of occurrence, when his brother was away from the house for a few hours, the appellant killed his sister-in-law, her two children and the girlservant and committed robbery of the ear-tops and the bangles. On the person of Shahinbi, there were 20 stab 20 wounds resulting in punctures of the pleura and both the lungs. Both her ear-lobes were torn. In addition to the stab wounds, there were also 7 wounds caused by a hard and blunt object. There were 10 wounds on the person of Shahabaj and ribs were found broken. The liver was punctured. There were 8 incised wounds on the person of jaitunbi. The abdominal wall and peritoneum were punctured. There was an incised injury on the spleen also. On the person of Sanayya, there were three injuries. The intestines were cut. The abdominal wall and the peritoneum were punctured. The appellant, we see, acted like a demon showing no mercy to his helpless victims, three of whom were helpless little children and one a woman. The motive was gain and the murders were perpetrated in a cruel, callous and fiendish fashion. There is no way to show him any mercy. The learned Counsel for the appellant suggested that we may incline towards leniency because of the age of the accused which was 22 years, and because the case rests upon circumstantial evidence. Despite these two factors pointed out to us by the learned Counsel, we are unable to refuse to pass the sentence of death as we would be stultifying the course of law and justice if we adopt such a course in this case. This is truly

the 'rarest of rare cases' and we have no option but to confirm the sentence of death and dismiss the appeal.