

K.P. Mohammed vs State Of Kerala on 11 March, 1983

Equivalent citations: 1983(1)CRIMES796(SC), 1983(0)KLT380(SC), 1984SUPP(1)SCC684, AIRONLINE 1983 SC 9, (1983) KER LT 380 1985 SCC (CRI) 142, 1985 SCC (CRI) 142

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Bench: A.N.Sen, Y.V. Chandrachud

ORDER

Y.V. Chandrachud, C.J.

1. This case makes both a sorry and amazing reading. The petitioner was convicted under Section 302 Indian Penal Code by the learned District and Sessions Judge, Manjeri, and was sentenced to death on 30-6-1977. The High Court having confirmed the order of conviction and sentence, the petitioner filed a special leave petition in this Court which was dismissed on August 16, 1978. The petitioner then filed a Mercy Petition to the President of India on 8-10-1978 which has been pending for the last four and a half years. We adjourned this writ petition from time to time in the hope that, at least for the reason that the petitioner has once again 'approached this Court, the Government of India will expedite its processes and dispose of the Mercy Petition early. After these abortive adjournments, we must confess that we are not at the end of our patience, it was on April 19, 1982 that we had issued a notice to the Government of India through its Ministry of Home Affairs. Not even as little as an affidavit has been filed before us, though almost a year has rolled by. On January 10, 1983, yet another order was passed by this Court drawing the attention of the Government to this uneasy state of affairs. Even today, no worthwhile information is forthcoming. Delays in dispensation of justice are becoming more and more chronic, whether the dispenser of justice is the executive or the judiciary. But there are at least some sensitive areas like those concerning life and death where the need for speedy justice is self-evident. Even in a matter like the disposal of an Election Petition, the Representation of the People Act, 1951 provides by Section 86(7) that "Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial." It is perhaps time for accepting a self-imposed rule of discipline that Mercy Petitions shall be disposed of within, say, three months. These delays are gradually creating serious social problems by driving the courts to reduce death sentences even in those rarest of rare cases in which, on the most careful, dispassionate and humane considerations death sentence was found to be the only sentence called for. The expectation of persons condemned to death that they still have a chance to live is surely not of lesser social significance than the expectation of contestants to an Election Petition that they will one day vote on the passing of a bill.

2. Considering all the circumstances of the case, including those concerning the background and motivation of the crime in the instant case, we are of the opinion that the death sentence imposed upon the petitioner should be set aside and in its place the sentence of life imprisonment should be passed. We direct accordingly. It is needless to add that the death sentence imposed upon the petitioner shall not be executed. It is however necessary to add that we are not setting aside the death sentence merely for the reason that a certain number of years have passed after the imposition of the death sentences. We do not hold or share the view that a sentence of death becomes inexecutable after the lapse of any particular number of years.

3. The writ petition will stand disposed of in terms of this order.