

# Jitendra @ Jeetu vs State Of Madhya Pradesh on 1 November, 2018

**Equivalent citations: AIRONLINE 2018 SC 1062**

**Author: A.K. Sikri**

**Bench: Indira Banerjee, Ashok Bhushan, A.K. Sikri**

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NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

REVIEW PETITION (CRIMINAL) NO. 324 OF 2015

IN

SPECIAL LEAVE PETITION (CRIMINAL) NO. 111 OF 2015

JITENDRA @ JEETU

.....PETITIONER(S)

VERSUS

STATE OF  
OTHERS

MADHYA

PRADESH

&

.....RESPONDENT(S)

JUDGMENT

A.K. SIKRI, J.

This Review Petition is filed seeking review of orders dated January 06, 2015 whereby Special Leave Petition (Crl.) No. 111 of 2015 @ D35737 of 2014 filed by the review petitioner and his co-accused was dismissed in limine with one word 'dismissed'.

2. First Information Report No. 513 of 2012 was registered under Sections 363, 376(2)(g), 201 and 302 of the Indian Penal Code (IPC) wherein the petitioner and his two co-accused were implicated. They were arrested on June 26, 2012. After the investigation was complete, charge-sheet was filed and charges framed under the aforesaid provisions. Since the review petitioner and his co-accused persons pleaded not guilty, the prosecution led evidence in support of the aforesaid charges. The Additional Sessions Judge, Indore vide judgment dated April 26, 2013 convicted the two accused persons under Sections 363, 376(2)(f), 376(2)(g), 201 and 302, IPC. They were awarded 7 years'

rigorous imprisonment (RI) each for offences under Sections 363 and 201, life imprisonment each for Section 376(2)(f) and (g) and sentence to death under Section 302, IPC.

3. Since death sentence was awarded, Reference was made to the High Court. Both the convicted persons also challenged their conviction by filing a common appeal in the High Court. The said appeal as well as the criminal reference were heard together by the High Court. The High Court, by its judgment dated August 21, 2014, affirmed the conviction as well as death sentence awarded to the accused persons.

4. The review petitioner along with co-accused persons challenged the said judgment of the High Court and filed Special Leave Petition (Crl.) No. 111 of 2015 (@ D35737 of 2014) which was dismissed in limine on January 06, 2015, as pointed out above. However, the review petition against the order dated January 06, 2015 is filed by only one person, i.e., the review petitioner.

5. Mr. Grover, learned senior counsel appearing for the review petitioner has sought review of the said order primarily on two grounds. In the first instance, it is submitted that when it was a case of death penalty, the special leave petition should not have been dismissed without giving any reasons. He also submitted that though the review petitioner had initially approached the Secretary, Supreme Court Legal Service Committee (SCLSC) which assigned the case to its panel lawyer who drafted the special leave petition and filed the same in the Court, even before it could come up for hearing, the family of the review petitioner had made an application dated December 26, 2014 to the Secretary, SCLSC for withdrawal of the legal aid, as the review petitioner wanted the case to be presented through his own advocate. Notwithstanding the same, the advocate who was assigned the case by SCLSC appeared in the matter on January 06, 2015 when the special leave petition of the review petitioner and his co-accused persons was dismissed in limine.

6. By orders in Review Petition No. 388 of 2015, where also the special leave petition was dismissed in identical manner in limine and without giving reasons, we have allowed the review, inter alia, on the ground that in such cases a deeper scrutiny coupled with reasons in support of death penalty should be given by the Court. Adopting the reasoning in the said case, this review petition also stands allowed and as a consequence, SLP(Criminal) No. 111 of 2015 is restored to its original number.

.....J. (A.K. SIKRI) .....J. (ASHOK BHUSHAN)  
.....J. (INDIRA BANERJEE) NEW DELHI;

NOVEMBER 01, 2018.

NON-REPORTABLE IN THE SUPREME COURT OF INDIA CRIMINAL APPELLATE JURISDICTION CRIMINAL APPEAL NO. 1441 OF 2018 [ARISING OUT OF SLP (CRL.) NO. 111 OF 2015] JITENDRA @ JEETU .....APPELLANT (S) VERSUS STATE OF MADHYA PRADESH & ORS. ....RESPONDENT(S) JUDGMENT A.K. SIKRI, J.

Leave granted.

2. We have heard the counsel for the parties at length, with their consent.

Insofar as conviction of the appellant is concerned, after perusing the record and going through the evidence produced against the appellant, we are of the opinion that it does not call for any interference, in fact, after some arguments, Mr. Grover did not seriously press the issue of conviction and concentrated on the award of death penalty to the appellants. Even otherwise, we are convinced that the conviction is rightly recorded.

3. Reverting to the issue of death penalty, we have given our serious thoughts on this aspect. After examining the matter at length, we are of the opinion that the instant case would not fall in the category of rarest of rare cases and it would be in the interest of justice if the death sentence is commuted into life imprisonment. More so, the appellant has no history of any other criminal activity, possibility of reform, as the learned senior counsel for respondent-State could not point out blameworthy conduct depicted by him in jail. At the same time, we are also of the opinion that life sentence should be with a cap of 20 years' rigorous imprisonment (RI) which would mean that the appellant shall not be entitled to make any representation for remission till he completes 20 years of RI.

4. The appeal is partly allowed in the aforesaid terms. Insofar as sentences given under Sections 376 and 302, IPC are concerned, those are maintained with clarification that all the sentences shall run concurrently.

.....J. (A.K. SIKRI) .....J. (ASHOK BHUSHAN)  
.....J. (INDIRA BANERJEE) NEW DELHI;

NOVEMBER 01, 2018.