

Janki Dass vs The State (Delhi Administration) on 30 August, 1994

Equivalent citations: AIR 1995 SC 1002, 1994 CRILJ 1464, 1994 (3) CRIMES 375 (SC), JT 1994 (5) SC 604, 1994 (3) SCALE 905, 1994 SUPP (3) SCC 143, 1994 (2) UJ 535 (SC), AIR 1995 SUPREME COURT 1002, 1995 AIR SCW 1095, 1995 AIR SCW 932, 1995 AIR SCW 993, (1994) 2 CURLR 1113, 1994 CRILR (SC&MP) 631, (1994) 4 SCT 398, (1995) 1 LBLJ 927, (1994) 5 JT 378 (SC), (1994) 69 FACLR 695, 1994 (3) SCC (SUPP) 380, (1995) 1 KER LT 26, 1995 SCC (SUPP) 2 13, (1994) 5 JT 604 (SC), 1994 SCC (SUPP) 3 380, 1994 (5) JT 604, 1994 UJ (SC) 2 535, (1995) 1 SCR 935 (SC), (1994) 28 ATC 415, 1994 SCC (SUPP) 3 143, 1994 SCC (CRI) 1673, 1994 CRILR (SC MAH GUJ) 631, (1995) 2 JT 61 (SC), (1995) SC CR R 307, (1994) 3 CRIMES 375, (1994) 3 RECCRIR 523, (1995) 1 CURCRIR 51, (1994) 2 CRICJ 717, (1994) 3 ALLCRILR 230, (1994) ALLCRIC 823

Bench: G.N. Ray, N.P. Singh

ORDER

1. The appellant has been convicted under Section 302 and Section 201 of the Penal Code for having committed the murder of his three children (1) Rakesh (2) Anita and (3) Asha and for burying the dead bodies under the heap of earth in his house. He has been sentenced to death. The said conviction and sentence has been confirmed by the High Court.
2. It is the case of the prosecution that the appellant had four children, three daughters and one son. He was living with them along with his wife at House No. B-192, Vivek Vihar, Delhi, as a tenant of Pyare Lal.
3. In February, 1989 after locking the house, it is said, the appellant left for some unknown destination. During this period, the police from Rexaul, which is in the State of Bihar, came to Pyare Lal to make enquiries about the appellant. However on 15.8.1989 the appellant met Jai Kishan, son-in-law of the landlord Pyare Lal, who asked the appellant to vacate the house because it was lying unoccupied and locked. The appellant stated that as he was facing lot of difficulties, he will vacate the house after some time. Pyare Lal informed the appellant that police had come from Rexaul in his search and was making enquiries about him, in connection with two dead bodies found in a hotel at Rexaul. Those two dead bodies were of the wife and daughter of the appellant. The appellant informed Pyare Lal that the dead bodies of three children had been buried in the same house. Thereafter the police was informed and lock was open with the key recovered from the appellant. The appellant pointed out the place from where the three dead bodies in a highly decomposed position were recovered. The post mortem examination of the dead bodies was

conducted by the doctor at the spot. Thereafter the appellant was taken in custody. The three dead bodies were Fourier be of the son of the appellant, Rakesh, aged about 21 years and the two daughters Anita and Asha, aged about 19 and 16 years respectively. The appellant also pointed out the place from where he had brought the loose earth to cover the dead bodies. Thereafter the appellant took the police to shops from where he had purchased because and cyanide.

4. On behalf of the prosecution, witnesses were examined, who deposed as to how the accused was in debt and had taken loans from different persons. The other witnesses proved about his being in occupation of the house in question on rent and as to how at his" instance the dead bodies of the three children were recovered. It was not known how and when cyanide was given to the three children before they were buried in the house. However, the appellant himself stated in his statement, under Section 313 of the CrPC, during the trial gave the details of the murder of three children:

Nobody has implicated me in this case. I was helpless and victim of circumstances. I owned about Rs. Two Lacs to Jagdish and Gian Chand. I was unable to pay. I was even unable to pay the interest. I was threatened by them that if I do not return the money, they will treat me badly. Finding no other way, I administered cyanide to Rakesh, Anita & Asha while my wife and daughter Sunita had gone to Calcutta to attend the marriage of the son of my brother-in-law. After a few days, my wife and Sunita came to Delhi. I did not take them to my house and took them to Adarsh Nagar and from there took them to Rexaul via Patna. I also administered cyanide to them in a hotel in Rexaul. My wife, daughters Sunita, Asha, Anita and Rakesh my son died due to poisoning by cyanide.

He also admitted that he had taken the police to the place where the three dead bodies had been buried in the house and at his instance those dead bodies were recovered.

5. Although the present case is so shocking to the conscience and one simply wonders at the inhuman and insane behaviors of the appellant, who because of the financial crisis and pressure built against him, took a decision to finish the lives of his family members, the special feature of the case nonetheless is that the appellant never disputed or questioned the charges leveled against him. It is really the appellant who had himself given the details of his mental condition under which he was forced to give cyanide to his two daughters and one son and to bury them in the house. The statement of the appellant that he had administered cyanide to his children is corroborated by the opinion of the doctor who held the post mortem examination. At that time his wife and one daughter were at Calcutta. No evidence has come on the record of this case as to how later the appellant took his wife and other daughter to Rexaul where he administered cyanide to them also.

6. In this case, there is hardly anything to adjudicate. The appellant has owned his misdeeds and as stated about his mental condition, before he administered cyanide to his children, in a very frank and straight forward manner. He has made grievance against none. In such a situation there is hardly anything to examine, whether the charge of murder has been proved against him. The only

question which remains to be considered is as to whether the sentence of death is the only punishment appropriate for the appellant. If one goes with the number of deaths, the appellant deserves the maximum penalty provided for such an offence. But reading his statement and appreciating his conduct from stage to stage, it is apparent and obvious that he is a mental case. He found out a solution of his miseries in good faith, which can hardly be said to be a solution to escape the financial liability created by him. But one thing cannot be disputed that he committed the offence in question not with an intention to commit the murder of his own children but only by way of deliverance from the day to day strain of life he being financially crippled. If he himself had not stated the details of the manner of occurrence in his statement under Section 313 of the Code before the Trial Judge, the total investigation made by the police had led only to the fact that at his instance three dead bodies which had been buried for six months, were recovered from the house of the appellant.

7. Taking all facts and circumstances into consideration, we are of the opinion that the extreme penalty of sentence of death, should not be awarded against the appellant and it should be substituted by a sentence of imprisonment for life, which shall meet the ends of justice. Accordingly, the sentence of death is substituted by a sentence of imprisonment for life. The appeal is allowed to the extent indicated above. Subject to modification made above, the appeal is dismissed.