

One of the accused persons was the relative of the deceased family. They not only merely robbed the family of valuables but also killed three members of the family who were present at the time. They also raped the only female member in the house. The mitigating factors which the judge took into account in commuting death sentence into life imprisonment were that they were neither too old nor too young to be beyond reformation and rehabilitation. It was difficult also to judge as to what part was played by one or the other and, therefore, who among them would come in the "rarest" category.^{286.}

[s 302.14.2] *Killing of wife and children in frustration.*—

Though the accused had some suspicion about the character of his wife, the facts showed that he killed his wife and children because of unhappiness and frustration and not because of any criminal tendency. The penalty of death was set aside and he was sentenced to life imprisonment.^{287.} The accused requested his wife to accompany him to his house. She turned it down. This created frustration and anger in his mind. He picked up a sharp-edged weapon and mercilessly struck her and also his mother-in-law repeatedly. Both of them fell dead. The Court said that the case was not of the rarest category. Death sentence was commuted to life imprisonment.^{288.}

[s 302.14.3] *Death in custody.*—

The Supreme Court observed as follows:

There is a rise in incidents of custodial deaths but accused cannot be convicted completely *de hors* the evidence and its admissibility according to law. Court cannot act on presumption merely on a strong suspicion or assumption and presumption. A presumption can only be drawn when it is permissible under the law. Rushing into conclusions without there being any proper link with commission of crime is improper. The view taken by the trial Court was just and proper in the given facts and circumstances of the case and it was not proper for the High Court to reverse the finding. Reasons given by the High Court in reversing the order of acquittal of accused persons were not cogent and did not appeal to reason so as to justify conviction of the appellants. Hence, impugned judgment of the High Court was set aside.^{289.}

[s 302.14.4] *Restoration of death penalty after acquittal.*—

The trial Court awarded death sentence. The High Court acquitted the accused in 1982. The Supreme Court said that the accused having enjoyed acquittal, death sentence could not be restored even if the case merited the imposition of death penalty.^{290.}

[s 302.15] *Delay.*—

No hard-and-fast rules can be laid down with respect to the delay which could result as a mitigating circumstance, and each case must depend on its own facts. In the present case, there was no delay whatsoever that the circumstances necessitated imposition of life sentence instead of death sentence.^{291.}

[s 302.16] Capital (Death) sentence.—

The doctrine of rarest of rare case was enunciated by the Supreme Court in *Bachan Singh v State of Punjab*.²⁹² The trial Court, High Courts and even the Supreme Court are duty bound to follow it.²⁹³ The Court explained in this case some of the relevant factors as follows:

Not only the doctrine of proportionality but also doctrine of rehabilitation should be taken into consideration, particularly in view of [section 354\(3\), Cr PC, 1973](#), which must be read with [Article 21 of the Constitution](#). Where there was nothing to show that the appellant-accused could not be reformed and rehabilitated, the mere manner of disposal of the dead body, howsoever abhorrent, should not by itself be regarded sufficient to bring the case in the rarest of rare category. In the present case, all the accused including the appellant were unemployed young men in search of job. They were not criminals. In exception of a plan proposed by the appellant and accepted by them, they kidnapped a friend of theirs with the motive of procuring ransom from his family but later murdered him, and after cutting his body into pieces, disposed of the same at different places. One of the accused turned approver and prosecution case was based exclusively on his evidence. Appellant-accused contradicted the approver's version in respect of his role. In such a case, statement of approver regarding manner of murder and role of accused and that of approver himself, should be tested on the basis of prudence doctrine taking into consideration *inter alia*, evidence produced by the accused for imposition of lesser punishment. Hence, death penalty awarded by the Courts below, in the absence of any special reasons to support the same was substituted by penalty of rigorous imprisonment for life.

Death punishment stands on a very different footing from other types of punishments. It is unique in its total irrevocability. Incarceration, life or otherwise, potentially serves more than one sentencing aims. Deterrence, incapacitation, rehabilitation and retribution all ends are capable to be furthered in different degrees, by calibrating this punishment in light of the overarching penal policy. But the same does not hold true of death penalty.²⁹⁴

One has to observe the global move away from the death penalty. Latest statistics show that 138 nations have abolished death penalty in either law or practice (no executions for 10 years).

Further, on 18 December 2007, the UN General Assembly adopted Resolution 62/149 calling upon countries that retain death penalty to establish a worldwide moratorium on executions with a view to abolishing the death penalty. India is, however, one of the 59 nations that retain the death penalty.²⁹⁵

The Law Commission of India in its Report No. 262 titled "The Death Penalty" has recommended the abolition of death penalty for all the crimes other than terrorism related offences and waging war (offences affecting National Security).

Where the question of whether death penalty could be imposed in a case which depended upon circumstantial evidence, the Supreme Court said:

If the circumstantial evidence is found to be of unimpeachable character in establishing the guilt of the accused, that form the foundation for conviction and that has nothing to do with the question of sentence. Mitigating circumstances and the aggravating circumstances have to be balanced and in the balance sheet of such circumstances. The fact that the case rests on circumstantial evidence has no role to play. In fact, in most of the cases where death sentences are awarded for rape and murder and the like, there is practically no scope for getting an eyewitness. Such offences are not committed in public view. Only available evidence in such cases is

circumstantial. If such evidence is found to be credible, cogent and trustworthy for the purpose of recording conviction, to treat such evidence as a mitigating circumstance, would amount to consideration of an irrelevant aspect. Hence, such plea is unsustainable. Instant case fell in category of the rarest of rare cases. Circumstances proved established the depraved acts of the accused, and they called for only one sentence, that is, death sentence. Judgment of the High Court, confirming the conviction and sentence imposed by the trial Court, does not warrant any interference.^{296.}

[s 302.16.1] *Punishment of terrorists.*—

The prosecution case was that the accused persons came running to a police picket and hurled bombs at security personnel. There was good identification evidence. Injuries on the persons of the accused were scabbed burn injuries caused by handling of explosive substance. The medical evidence showed that abrasions on the body of the deceased could have been caused by splinters from bomb explosions. The case being proved beyond any reasonable doubt, the conviction for murder was fully justified.^{297.}

[s 302.16.2] *Hearing before awarding death sentence.*—

The matter was remitted where death sentence was awarded without hearing the accused.^{298.} It is necessary to afford opportunity of hearing to the accused on the question of sentence, where life imprisonment or death sentence is awarded.^{299.}

[s 302.17] *Fine.*—

It has been held that the words "shall also be liable to fine" are not to be understood as a legislative mandate that the Court must invariably impose fine also as a part of the punishment.^{300.}

[s 302.18] *Appeal against acquittal.*—

Where the prosecution case of homicide and the defence version of suicide were both found to be equally probable, the accused was held to be entitled to the benefit of doubt.^{301.} Where there was a gross enmity between the parties and the medical evidence did not support the ocular version, accused was given benefit of doubt.^{302.}

[s 302.19] *Presumption of murder.*—

Where the question was whether the death in question was homicidal or suicidal, and the expert who examined the body was not sure either way, the presumption as to murder was held to be something doubtful.^{303.} Where a person is not proved to be guilty, the presumption of innocence prevails in reference to him.^{304.}

[s 302.20] As to the application of [section 106 of the Evidence Act, 1872.](#)—

In cases where mere circumstantial evidence exists, the burden of proof as envisaged under [section 106 of the Evidence Act, 1872](#), i.e., the burden of proving the fact, which is especially within the knowledge of a person, plays an important role in several cases.

Where the dead body of the deceased was found in the river, the knowledge about that incident was within the special knowledge of the accused. As the deceased was in the custody of the accused and disappeared from their house, the accused did not reveal what happened to the deceased. The Supreme Court held that the accused failed to discharge their duty under [section 106 of the Evidence Act, 1872](#). The prosecution is not expected to give the exact manner in which the deceased was killed. Adverse inference needs to be drawn against the accused, as they failed to explain how the deceased was found dead in the river in one-foot deep water.

Referring to [section 106 of the Evidence Act, 1872](#), it was propounded that the said section was not intended to relieve the prosecution of its burden to prove the guilt of the accused beyond reasonable doubt, but would apply to cases where prosecution had succeeded in proving facts from which a reasonable inference could be drawn regarding the existence of certain other facts, unless the accused, by virtue of his special knowledge regarding such facts, succeeds in offering any explanation, to drive the Court to draw a different inference.^{305.}

In *Gajanan Dashrath Kharate v State of Maharashtra*,^{306.} the deceased was found within the company of the accused and on the next day was found dead. Blood stained dress of the accused with the blood of the deceased was recovered. The Supreme Court held that when an offence like murder is committed in secrecy inside a house, the initial burden to establish the case would undoubtedly be upon the prosecution. In view of [section 106 of the Evidence Act, 1872](#), there will be a corresponding burden on the inmates of the house to give cogent explanation as to how the crime was committed.

When the deceased is shown to be abducted, it is for the abductors to explain how they dealt with the abducted victim. In the absence of an explanation, the Court is to draw inference that the abductors are the murderers.^{307.}

In the examination under [section 313, Cr PC, 1973](#), the accused denied any knowledge of the crime and alleged false implication. [Section 106 of the Evidence Act, 1872](#) imposes an obligation on the accused to explain as to what happened after they were last seen together.^{308.}

The mere circumstance that the accused was last seen with the deceased is an unsafe hypothesis to find a conviction on a charge of murder. The lapse of time between the point when the accused was last seen with the deceased and the time of death has to be minimal.^{309.} When the prosecution mainly relies on [section 106 of the Evidence Act, 1872](#), the Supreme Court held, in a case where murder took place in a hotel room, that to invoke that section, the main point to be established by the prosecution is that the accused persons were present in the hotel room at the relevant time. In this case, the prosecution failed to produce the CCTV footages available at the hotel where the murder took place, the Court further observed that the CCTV footage being a crucial piece of evidence, it is for the prosecution to have produced the best evidence, which was missing.^{310.}

In the absence of any persuasive evidence to hold that at the relevant time the appellant was present in the house, it would also be impermissible to cast any burden on him as contemplated under [section 106 of the Evidence Act, 1872](#).^{311.}

Merely because no expert opinion was obtained to prove as to whether bones recovered were human or animal bones, it would not weaken the case of prosecution in the light of the overwhelming evidence available on record to prove the complicity of the appellants.^{312.}

[s 302.22] Circumstantial evidence.—

The circumstance (*that the accused persons were seen in the vicinity of the neighbourhood of the crime little before the same was committed*), if coupled with the recovery of the ornaments of the deceased from the possession of the accused, at best, create a highly suspicious situation; but beyond a strong suspicion nothing else would follow in the absence of any other circumstance(s) which could suggest the involvement of the accused in the offence/offences alleged. Even with the aid of the presumption under [section 114 of the Evidence Act, 1872](#), the charge of murder cannot be brought home unless there is some evidence to show that the robbery and murder occurred at the same time, i.e., in the course of the same transaction.^{313.}

[s 302.23] Section 302 and section 396.—

The law clearly marks a distinction between culpable homicide amounting to murder and culpable homicide not amounting to murder. Another distinction between sections 302 and 396 is that under the latter, wide discretion is vested in the Courts in relation to awarding of punishment. The Court, in exercise of its jurisdiction and judicial discretion in consonance with the established principles of law can award sentence of 10 years with fine or even award sentence of life imprisonment or sentence of death, as the case may be. While under section 302, the Court cannot, in its discretion, award sentence lesser than life imprisonment. The ingredients of both these offences, to some extent, are also different inasmuch as to complete an offence of 'dacoity'. Under [section 396, IPC, 1860](#), five or more persons must conjointly commit the robbery while under [section 302 of the IPC, 1860](#) even one person by himself can commit the offence of murder. But, as already noticed, to attract the provisions of section 396, the offence of 'dacoity' must be coupled with murder. In other words, the ingredients of section 302 becomes an integral part of the offences punishable under [section 396 of the IPC, 1860](#).^{314.}

[s 302.24] Additional/alternate charge under section 302, prejudice caused.—

Charges were framed under sections 306 and 364. After examination of all the witnesses (26) except the investigating officer, an alternate charge was framed under section 302 and the accused convicted thereunder. The witnesses were cross-examined as to the allegations related to the offences under sections 306 and 364. Conviction under section 302 set aside as prejudiced.^{315.}

^{196.} Subs. by Act 26 of 1955, section 117 and Sch, for "transportation for life" (w.e.f. 1-1-1956).

197. *Ajitsingh Harnamsingh Gujral v State of Maharashtra*, 2011 (10) Scale 394 [LNIND 2011 SC 902] : 2011 AIR (SCW) 5448 : AIR 2011 SC 3690 [LNIND 2011 SC 902] ; *Rajesh Kumar v State*, 2011 (11) Scale 182 [LNIND 2011 SC 2734] : 2011 AIR (SCW) 5997 : (2011) 13 SCC 706 [LNIND 2011 SC 2734] .
198. *Nawab Singh v State of UP*, AIR 1954 SC 278 .
199. *Vadivelu Thevar v State of Madras*, AIR 1957 SC 614 [LNIND 1957 SC 41] .
200. *Jagmohan Singh v State of UP*, (1973) 1 SCC 20 [LNIND 1972 SC 477] .
201. *Rajendra Prasad v State of UP*, (1979) 3 SCR 646 .
202. *McGoutha v California*, (1971) 402 US 183.
203. *Furman v Georgia* (1972) 408 US 238.
204. *Jagmohan Singh v State of UP*, (1973) 1 SCC 20 [LNIND 1972 SC 477] .
205. *Sunder v State*, AIR 2013 SC 777 [LNIND 2013 SC 91] : 2013 (3) SCC 215 [LNIND 2013 SC 91] .
206. *Santa Singh v State of Punjab*, (1976) 4 SCC 190 [LNIND 1976 SC 268] .
207. *Bachan Singh v State of Punjab*, AIR 1980 SC 898 [LNIND 1980 SC 260] : (1980) 2 SCC 684 [LNIND 1980 SC 261] .
208. *Bachan Singh v State of Punjab*, (1980) 2 SCC 684 [LNIND 1980 SC 261] : AIR 1980 SC 898 [LNIND 1980 SC 260] .
209. *Machhi Singh v State of Rajasthan*, 1983 (3) SCC 470 [LNIND 1983 SC 170] : AIR 1983 SC 957 [LNIND 1983 SC 170] .
210. See the Box with 'Supreme Court Guidelines in Machi Singh'.
211. *Sangeet v State of Haryana*, AIR 2013 SC 447 [LNIND 2012 SC 719] : (2013) 2 SCC 452 [LNIND 2012 SC 719] .
212. *Machhi Singh v State of Punjab*, AIR 1983 SC 957 [LNIND 1983 SC 170] : 1983 (3) SCC 470 [LNIND 1983 SC 170] .
213. *Vasanta Sampat Dupare v State of Maharashtra*, AIR 2017 SC 2530 [LNIND 2017 SC 248] .
214. *Ramnaresh v State of Chhattisgarh*, AIR 2012 SC 1357 [LNIND 2012 SC 404] .
215. *Brajendra Singh v State of MP*, AIR 2012 SC 1552 [LNIND 2012 SC 159] .
216. *Machhi Singh v State of Punjab*, (1983) 3 SCC 470 [LNIND 1983 SC 170] : AIR 1983 SC 957 [LNIND 1983 SC 170] : 1983 Cr LJ 1457 . See also *State of Punjab v Garmej Shing*, 2002 Cr LJ 3741 (SC), where also the court counted the factors and gave some illustrations. The accused killed his brother and two members of his family. The incident was the result of a mistrust created by a payment made by accused to his brother. The court was of the view that it was not a rarest case and death penalty was improper. The court also said that the likelihood of the accused being released prematurely was not a ground for imposing death penalty. The amount of compensation to the victim should not exceed the fine imposed. The only surviving member was the daughter of the deceased. The amount of fine was enhanced from Rs. 5000 to Rs. 20,000.
217. *Jagmohan Singh*, 1973 Cr LJ 370 : AIR 1973 SC 947 [LNIND 1972 SC 477] ; *Mohinder Singh*, 1973 Cr LJ 610 : AIR 1973 SC 697 ; *Maghar Singh v State*, 1975 Cr LJ 1102 : AIR 1975 SC 1320 .
218. *Gopal Chand Srivastava v State of UP*, 1994 Cr LJ 2863 (All), all the inmates were told to stay away and the victims were then hit by two assailants whom the court awarded death sentence but the confirming court reduced the sentence to life imprisonment in view of their young years.
219. *Ramesh*, 1979 Cr LJ 902 : AIR 1979 SC 871 .
220. *State of UP v Paras Nath*, 1973 Cr LJ 850 : AIR 1973 SC 1073 [LNIND 1973 SC 14] .

221. *Munawar Harun Shah*, 1983 Cr LJ 971 : AIR 1983 SC 585 [LNIND 1983 SC 113] : (1983) 3 SCC 254 . **Followed** in *State v Ashok Kumar*, (1995) 2 Cr LJ 1789 (Del), where the accused killed the husband of the woman with whom he was in love; the killing was done when he was taken away with the help of his wife and was struck while asleep, both convicted and sentenced to death; fine of one lakh rupees imposed on the lady accused for expenses of prosecution she had gained anything from the offence nor had any means. *Suresh Kumar v State of Rajasthan*, 1995 Cr LJ 1853 (Raj), a boy of 20 years old, caused death of his wife and daughter, faced prosecution for seven years, life imprisonment not enhanced to death sentence. *James v State of Kerala*, (1995) 1 Cr LJ 55 (Ker), money-lender entered the home of the borrower and killed him, his wife and his mother, entry could have been for the lawful purpose of seeking repayment, death sentence reduced to life imprisonment, not rarest of rare case.
222. *Shankaria*, 1978 Cr LJ 1251 : AIR 1978 SC 1248 [LNIND 1978 SC 138] . *Raghunathan v State of Kerala*, (1995) 2 Cr LJ 1880 (Ker), death of old woman caused by strangulation and robbed of ornaments, life imprisonment upheld. *Sheikh Ayyub v State of Maharashtra*, (1995) 1 Cr LJ 420 : (1994) 2 Supp SCC 269 , accused killed two police officers while they were arresting him, he snatched police pistol and handled it in confused manner, injuring his companion co-accused also, death sentence reduced to life imprisonment. *Deoraj Deju Suvarna v State of Maharashtra*, 1994 Cr LJ 3602 (Bom), it would be most shocking for a judge to hear the accused on the quantum of sentence after awarding him death sentence.
223. (2008) 13 SCC 767 [LNIND 2008 SC 1488] : AIR 2008 SC 3040 [LNIND 2008 SC 1488] : 2008 Cr LJ 3911 . The Court also observed that decision would go by comparison of one case with the other, comparison both quantitative and qualitative. The application of the sentencing policy through aggravating and mitigating circumstances came up for consideration in *Swamy Shraddananda (2) v State of Karnataka*, 2008 (13) SCC 767 [LNIND 2008 SC 1488] : AIR 2008 SC 3040 [LNIND 2008 SC 1488] : 2008 Cr LJ 3911 . On a review, it was concluded in paragraph 48 of the Report that there is a lack of evenness in the sentencing process. The rarest of rare principle has not been followed uniformly or consistently. **Reference** in this context was made to *Aloke Nath Dutta v State of WB*, 2007 (12) SCC 230 [LNIND 2006 SC 1131] : 2007 (51) AIC 429 (SC) : 2008 (2) SCC (Cri) 264 [LNIND 2006 SC 1131] , which in turn referred to several earlier decisions to bring home the point.
224. *Santosh Kumar Satishbhushan Bariyar v State of Maharashtra*, 2009 (6) SCC 498 [LNIND 2009 SC 1278] : 2009 (2) SCC (Cr) 1149 : 2009 (79) AIC 26 : 2009 (7) Scale 341 [LNIND 2009 SC 1278] .
225. *Shivaji @ Dadya Shankar Alhat v State of Maharashtra*, 2008 (15) SCC 269 [LNIND 2008 SC 1785] .
226. *Mohan Anna Chavan v State of Maharashtra*, 2008 (7) SCC 561 [LNIND 2008 SC 1265] .
227. *Bantu v State of UP*, 2008 (11) SCC 113 [LNIND 2008 SC 1496] .
228. *Surja Ram v State of Rajasthan*, 1996 (6) SCC 271 [LNIND 1996 SC 1548] .
229. *Dayanidhi Bisoi v State of Orissa*, 2003 (9) SCC 310 [LNIND 2003 SC 571] .
230. *State of UP v Sattan @ Satyendra*, 2009 (4) SCC 736 [LNIND 2009 SC 485] .
231. *Sangeet v State of Haryana*, AIR 2013 SC 447 [LNIND 2012 SC 719] : (2013) 2 SCC 452 [LNIND 2012 SC 719] .
232. *Sangeet v State of Haryana*, AIR 2013 SC 447 [LNIND 2012 SC 719] : (2013) 2 SCC 452 [LNIND 2012 SC 719] .
233. *Mohinder Singh v State of Punjab*, (2013) 3 SCC 294 [LNIND 2013 SC 71] : 2013 Cr LJ 1559 (SC).
234. *Swamy Shraddananda @ Murali Manohar Mishra v State of Karnataka*, (2008) 13 SCC 767 [LNIND 2008 SC 1488] : AIR 2008 SC 3040 [LNIND 2008 SC 1488] : 2008 Cr LJ 3911 .

235. *Santosh Kumar Satishbhushan Bariyar v State of Maharashtra*, 2009 (6) SCC 498 [LNIND 2009 SC 1278] : 2009 (2) SCC (Cr) 1149 : 2009 (79) AIC 26 : 2009 (7) Scale 341 [LNIND 2009 SC 1278] .
236. *Mohd Farooq Abdul Gafur v State of Maharashtra*, 2010 (14) SCC 641 [LNIND 2009 SC 1641] .
237. *Haresh Mohandas Rajput v State of Maharashtra*, 2011 (12) SCC 56 [LNIND 2011 SC 928] .
238. *State of Maharashtra v Goraksha Ambaji Adsul*, AIR 2011 SC 2689 [LNIND 2011 SC 627] .
239. *Mohammed Ajmal Mohammadamir Kasab @ Abu Mujahid v State of Maharashtra*, JT 2012 (8) SC 4 [LNIND 2012 SC 1215] .
240. See the Box with 'Principles summarised in Mohinder Singh's Case by Supreme Court'.
241. *Ravji @ Ram Chandra v State of Rajasthan*, 1996 (2) SCC 175 [LNIND 1995 SC 1247] .
242. *Shivaji @ Dadya Shankar Alhat v State of Maharashtra*, 2008 (15) SCC 269 [LNIND 2008 SC 1785] .
243. *Mohan Anna Chavan v State of Maharashtra*, 2008 (7) SCC 561 [LNIND 2008 SC 1265] .
244. *Bantu v State of UP*, 2008 (11) SCC 113 [LNIND 2008 SC 1496] .
245. *Surja Ram v State of Rajasthan*, 1996 (6) SCC 271 [LNIND 1996 SC 1548] .
246. *Dayanidhi Bisoi v State of Orissa*, 246 2003 (9) SCC 310 [LNIND 2003 SC 571] .
247. *State of UP v Sattan @ Satyendra and Others*, 2009 (4) SCC 736 [LNIND 2009 SC 485] .
248. *Mohd Farooq Abdul Gafur v State of Maharashtra*, 2010 (14) SCC 641 [LNIND 2009 SC 1641] , 692.
249. *Haresh Mohandas Rajput v State of Maharashtra*, 2011 (12) SCC 56 [LNIND 2011 SC 928] at p 63, para 20.
250. *State of Maharashtra v Goraksha Ambaji Adsul*, AIR 2011 SC 2689 [LNIND 2011 SC 627] .
251. *Mohinder Singh v State of Punjab*, (2013) 3 SCC 294 [LNIND 2013 SC 71] : 2013 Cr LJ 1559 (SC).
252. *Shankar Kisanrao Khade v State of Maharashtra*, 2013 Cr LJ 2595 (SC) : (2013) 5 SCC 546 [LNIND 2013 SC 429] . *Gurvail Singh @ Gala v State of Punjab*, AIR 2013 SC 1177 [LNIND 2013 SC 94] .
253. *Kumudi Lal v State of UP*, (1994) 4 SCC 108 .
254. *Raju v State of Haryana*, (2001) 9 SCC 50 [LNIND 2001 SC 1147] .
255. *Bantu @ Naresh Giri v State of MP*, (2001) 9 SCC 615 [LNIND 2001 SC 2372] .
256. *State of Maharashtra v Suresh*, (2000) 1 SCC 471 [LNIND 1999 SC 1126] .
257. *Amrit Singh v State of Punjab*, AIR 2007 SC 132 [LNIND 2006 SC 944] .
258. *Rameshbhai Chandubhai Rathod v State of Gujarat*, (2011) 2 SCC 764 [LNIND 2011 SC 96] .
259. *Surendra Pal Shivbalak v State of Gujarat*, (2005) 3 SCC 127 .
260. *Amit v State of Maharashtra*, (2003) 8 SCC 93 [LNIND 2003 SC 642] .
261. *Swamy Shraddananda (2) v State of Karnataka*, 2008 (13) SCC 767 [LNIND 2008 SC 1488] : AIR 2008 SC 3040 [LNIND 2008 SC 1488] : 2008 Cr LJ 3911 ; also see *State of UP v Sanjay Kumar*, (2012) 8 SCC 537 [LNIND 2012 SC 416] .
262. *Sangeet v State of Haryana*, AIR 2013 SC 447 [LNIND 2012 SC 719] : (2013) 2 SCC 452 [LNIND 2012 SC 719] : 2013 Cr LJ 425 .
263. *Sahib Hussain @ Sahib Jan v State of Rajasthan*, 2013 Cr LJ 2359 : 2013 (6) Scale 219 [LNIND 2013 SC 474] .
264. *Gurvail Singh @ Gala v State of Punjab*, 2013 (10) Scale 671 [LNIND 2013 SC 1147] .
265. *Sangeet v State of Haryana*, AIR 2013 SC 447 [LNIND 2012 SC 719] : (2013) 2 SCC 452 [LNIND 2012 SC 719] : 2013 Cr LJ 425 .
266. *State of Rajasthan v Jamil Khan*, 2013 (12) Scale 200 [LNIND 2013 SC 883] .

267. *Swamy Shraddananda (2) v State of Karnataka*, 2008 (13) SCC 767 [LNIND 2008 SC 1488] : AIR 2008 SC 3040 [LNIND 2008 SC 1488] : 2008 Cr LJ 3911 .
268. *Unni v State of Kerala*, 2013 Cr LJ 2819 (SC).
269. *Shatrughan Chauhan v UOI*, 2014 Cr LJ 1327 : [2014] 1 SCR 609 [LNIND 2014 SC 40] .
270. *Mohd Arif v The Registrar, Supreme Court of India*, 2014 Cr LJ 4598 : 2014 (87) All CC 939.
271. *TV Vatheeswaran*, AIR 1983 SC 361 [LNIND 1983 SC 43] , 1983 SCR (2) 348 .
272. *Triveni Ben v State of Gujarat*, AIR 1989 SC 1335 [LNIND 1989 SC 885] : (1989) 1 SCC 678 [LNIND 1989 SC 885] .
273. In *Ediga Annamma's case* (1974 (3) SCR 329) [LNIND 1974 SC 34] , two years was considered sufficient to justify interference with the sentence of death. In *Bhagwan Baux's case* (AIR 1978 SC 34) , two and a half years and in *Sadhu Singh's case* (AIR 1978 SC 1506) , three and a half years were taken as sufficient to justify altering the sentence of death into one of imprisonment for life; see also *KP Mohammed v State of Kerala*, (1985) 1 SCC (Cr) 142 : 1984 Supp SCC 684.
274. *Sher Singh v State of Punjab*, AIR 1983 SC 465 [LNIND 1983 SC 89] : (1983) 2 SCC 344 [LNIND 1983 SC 89] .
275. *Javed Ahmed v State of Maharashtra*, AIR 1985 SC 231 [LNIND 1984 SC 310] : (1985) 1 SCC 275 [LNIND 1984 SC 310] .
276. *Triveni Ben v State of Gujarat*, AIR 1989 SC 1335 [LNIND 1989 SC 885] : (1989) 1 SCC 678 [LNIND 1989 SC 885] .
277. *Madhu Mehta v UOI*, (1989) 3 SCR 775 [LNIND 1989 SC 390] .
278. *Shatrughan Chauhan v UOI*, 2014 Cr LJ 1327 : [2014] 1 SCR 609 [LNIND 2014 SC 40] .
279. *Mukesh v State for NCT of Delhi*, 2017 (5) Scale 506 .
280. *Mukesh v State for NCT of Delhi*, AIR 2017 SC 2161 [LNIND 2017 SC 252] .
281. *Siraj Khan v State of Gujarat*, 1994 Cr LJ 1502 (Guj). *Kurale Pullaiah v State*, 2003 Cr LJ 1060 (AP), the accused stabbed the victim with knife, snatching the knife from the victim himself, inflicted only one stab injury, not a cold-blooded or heartless homicide, death sentence converted into life imprisonment.
282. *State of Maharashtra v Bharat Chaganlal Raghani*, AIR 2002 SC 409 [LNIND 2001 SC 1312] at 432.
283. *Prakash Dhawal Khairnar v State of Maharashtra*, AIR 2002 SC 340 [LNIND 2001 SC 2841] at 350, **relying** on *Bhagwan v State of Rajasthan*, 2001 AIR SCW 2189 : AIR 2001 SC 2342 [LNIND 2001 SC 1234] : (2001) Cr LJ 2925 : (2001) 6 SCC 2961 , wherein while reducing the death sentence to imprisonment for life, the court considered section 57, IPC, 1860 and referred to the following observation in *Dalbir Singh v State of Punjab*, (1979) 3 SCC 745 [LNIND 1979 SC 281] : AIR 1979 SC 1384 [LNIND 1979 SC 281] : 1979 Cr LJ 1058 .

"The sentences of death in the present appeal are liable to be reduced to life imprisonment. We may add a footnote to the ruling in *Rajendra Prasad v. State of U.P.*, (1979) 3 SCC 646 [LNIND 1979 SC 107] . Taking the clue from the English Legislation on abolition, we may suggest that life imprisonment which strictly means imprisonment for the whole of the man's life, but in practice amounts to incarceration for a period between 10 and 14 years may, at the option of the convicting Court, be subject to the conditions that the sentence of imprisonment shall last as long as life lasts where there are exceptional indications of murderous recidivism and the community cannot run the risk of the convict being at large. This takes care of judicial apprehensions that unless physically liquidated the culprit may at some remote time repeat murder." This should be contrasted with *Surja Ram v State of Rajasthan*, AIR 1997 SC 18 [LNIND 1996 SC 1548] : 1997 Cr LJ 51 , the accused killed his real brother, his two minor sons, and aunt

while asleep, also attempted to murder the brother's wife and daughter, deaths caused in cool and calculated manner, rarest, death sentence justified. *Bantu v State of MP*, AIR 2002 SC 70 [LNIND 2001 SC 2372] : 2002 Cr LJ 211 , the accused was sentenced to death for rape and murder of six-year-old child. He was of 22 years. There was no criminal record. He was not likely to be a grave danger to the society. His act, though heinous and condemnable, did not come in the category of rarest of rare cases. Death sentence was commuted to imprisonment for life. This should be contrasted with *Jai Kumar v State of MP*, AIR 1999 SC 1860 [LNIND 1999 SC 524] : 1999 Cr LJ 2569 . The accused committed a cold-blooded and gruesome and brutal murder of his sister-in-law and her eight-year-old daughter without any provocation. The Court did not regard his age of 22 years as any relevant factor. Death penalty was confirmed. *Deepak Kumar v Ravi Virmani*, 2002 Cr LJ 1781 (SC) : AIR 2002 SC 1320 [LNIND 2002 SC 1] , death sentence reduced to life imprisonment in a case in which there was heinous killing of four family members. The accused spared a child which showed humane conduct.

284. *Raju v State of Haryana*, AIR 2001 SC 2043 [LNIND 2001 SC 1147] .

285. *Om Prakash v State of Haryana*, AIR 1999 SC 1332 [LNIND 1999 SC 1282] : 1999 Cr LJ 2044 . Another case stressing the need for balancing process is *Anil v State of UP*, 2002 Cr LJ 2694 (All), the accused had his shop opposite a house. The house owner had the shop closed because of customer nuisance. The accused in revenge got him killed. Taking all the factors into account, the court said that he would not pose any danger to the society if his life was spared. The death sentence awarded to him was reduced to life imprisonment.

286. *Ronny v State of Maharashtra*, AIR 1998 SC 1251 [LNIND 1998 SC 302] : 1998 Cr LJ 1638 . *State of UP v Muthair Mian*, (2008) 10 SCC 223 [LNIND 2008 SC 1922] : AIR 2009 SC 839 [LNIND 2008 SC 1922] , acquittal because of irreconcilable facts. *State of MP v Chamru*, (2007) 12 SCC 423 [LNIND 2007 SC 802] : AIR 2007 SC 2400 [LNIND 2007 SC 802] : 2007 Cr LJ 3509 , four murders, nobody could be punished because witnesses not natural. *State of MP v Basodi*, (2007) 14 SCC 548 [LNIND 2007 SC 919] , killing alleged by uncle by gunshot, extra-judicial confession found to be myth, acquittal. *Ramappa Halappa Pujar v State of Karnataka*, (2007) 13 SCC 31 [LNIND 2007 SC 561] , High Court reversed acquittal, Supreme Court upheld conviction. *State of UP v Atar Singh*, (2007) 14 SCC 193 [LNIND 2007 SC 1316] : AIR 2008 SC 411 [LNIND 2007 SC 1316] : (2008) 1 All LJ 227, acquittal justified because of weakness of circumstantial evidence. *Jagdish v State of MP*, (2007) 13 SCC 12 [LNIND 2007 SC 1091] : 2008 Cr LJ 350 , acquittal justified on appreciation of evidence. *Bhagga v State of MP*, (2007) 13 SCC 442 [LNIND 2007 SC 1208] : AIR 2008 SC 175 [LNIND 2007 SC 1208] , accused to whom no overt act could be attributed, acquitted, no common object. *Ajay Singh v State of Maharashtra*, (2007) 12 SCC 341 [LNIND 2007 SC 438] : AIR 2007 SC 2188 [LNIND 2007 SC 438] , bride burning, prosecution failed to establish charge.

287. *Shaikh Ayub v State of Maharashtra*, AIR 1999 SC 1285 : 1998 Cr LJ 1656 ; *Heera Lal (Dr) v State of UP*, 2001 Cr LJ 2849 (All), killed wife and three children because of debt burden and attempted suicide. He was in great stress, frustration and mentally disturbed. Death sentence reduced to life imprisonment.

288. *Mani Ram v State of Uttaranchal*, 2001 Cr LJ 3403 (Uttaranchal).

289. *Sadashio Mundaji Bhalerao v State of Maharashtra*, (2007) 15 SCC 421 [LNIND 2006 SC 1047] .

290. *State of MP v Dharendra Kumar*, AIR 1997 SC 318 [LNIND 1996 SC 1830] : (1997) 1 SCC 93 [LNIND 1996 SC 1830] ; *Subhash Chander v Krishanlal*, 2001 Cr LJ 1825 (SC), refusal to interfere in the commutation of death sentence into life imprisonment by High Court.

291. *Jagdish v State of MP*, (2009) 9 SCC 495 [LNINDORD 2009 SC 210] : (2009) 4 AP LJ 1 .