Supreme Court of India
Raisul vs State Of U.P. on 7 November, 1975
Equivalent citations: AIR 1977 SC 1822, 1977 CriLJ 1555, (1976) 4 SCC 301
Author: P Bhagwati
Bench: P Bhagwati, P Shinghal, S M Ali
JUDGMENT P.N. Bhagwati, J.

1. This is an appeal by special leave limited only to the question of sentence. The appellant has been convicted under Section 302 of the Indian Penal Code for committing the murder of one Haji Khairati and sentenced to death. The only ground which has been urged before us for commuting the sentence of death to one of life imprisonment is that the appellant was below 18 years of age when he committed the offence and the extreme penalty of death should not, therefore, be awarded to him. The offence was committed on 13th August, 1970, and on 1st July, 1971. when the appellant was examined under Section 342 of the CrPC he stated that his age was 18 years. The appellant must, therefore, clearly have been below the age of 18 years on the date when he committed the offence. It is true that the learned Sessions Judge on looking at the appellant thought that he must not be less than 24 years of age. and the High Court also, on seeing the appellant personally, took the view that the estimate of age given by the Sessions Judge was correct, but we do not think that the learned Sessions Judge as well as the High Court were right in substituting their own estimate in regard to the age of the appellant and on the basis of such estimate rejecting the statement as to his age made by the appellant. Appearances can often be deceptive. We must, therefore, proceed on the basis that the appellant was below 18 years of age when he committed the offence. If that be so, there can be no doubt, having regard to the decision of this Court in Harnam v. State of U.P. Criminal Appeal No. 277 of 1974, D/- 10-10-1975 that the sentence of death should not have been imposed on the appellant. We, accordingly, allow the appeal and commute the sentence of death imposed on the appellant to one of life imprisonment.