

Supreme Court of India

Chandra Nath Banik And Anr. vs State Of West Bengal on 11 August, 1987

Equivalent citations: 1987 (1) SCALE 1255, 1987 Supp (1) SCC 468

Bench: K J Shetty, O C Reddy

ORDER

1. On April 21, 1987, one of us (Chinnappa Reddy, J and Khalid, J.) issued notice on the Review application on the question of sentence only. We have today heard Shri Shanti Bhushan, learned Counsel for the petitioners and Shri R.K. Garg, learned Counsel for the respondent. Shri Shanti Bhushan urged that more than two years have now elapsed since the sentence of death was imposed on the petitioners and they are, therefore, entitled to the benefit of the decisions of this Court in *Vatheeswarn v. State of Tamil Nadu* and *Javed Ahmed v. State of Maharashtra* . He also invites us to consider the circumstance that the first petitioner is now aged 69 years while the second petitioner is the father of three very young children. We also notice that while both the petitioners are undoubtedly guilty of the offence of murder, the record does not disclose the degree of their culpability; we have nothing to indicate what part was played by each of the petitioners in the commission of the offence. If we had known the part played by each of the petitioners, we would perhaps reserve the sentence of death for the more culpable and awarded the lesser sentence to the other. Taking an overall view of all the circumstances, we think that the safer course is to set aside the sentence of death and substitute in its place the sentence of imprisonment for life on both the petitioners. It is so ordered.