

DEATH PENALTY*By*

**—M. VENKATA NARAYANA, B.A., B.L.
M. RAVINDRA, B.Com., LL.B.
Advocates, Hyderabad**

Death Penalty, in the rarest of rare cases is awarded on the touchstone of conscience burn and a horrible shock to the public. Rarest of rare cases principle is evolved to deter the criminal from resorting to disastrous and dastardly act of committing the heinous crime of murder. Thus, the jurists advocate in favour of retaining death penalty in the statute. However certain countries in the globe are in favour of abolishing the death sentence and in fact some countries abolished it. Perhaps, this is also one of the reasons where Courts are reluctant to impose death penalty except in rarest of rare cases.

The present trend of the Apex Court as reflected in the recent Constitution Bench of the Supreme Court remains a landmark judgment and it deserves all commendation from the view point of human rights violation and equality before law as enshrined under the Article 14 of the Constitution. The sole consideration weighed with the wisdom of the Supreme Court is the delay in dispensation of clemency petitions by the death convicts by the President of India. The apex Court felt that long delay in disposal of mercy petitions by Constitution Head left the death convicts in untold agony and misery and depressed wait and it is further felt that the torture undergone by

the convicts on the death row is sufficient in fact to suffer the execution of the death penalty and from this humanitarian approach, Supreme Court favoured commutation of death sentence to that of life imprisonment.

It is also made clear in the said celebrated judgment that the Supreme Court cannot act as Court of appeal over the verdict of its own in confirming the death sentence awarded to the selfsame accused. However, it emphatically made clear that the decisions of President of India is justiciable only to the limited extent of appreciating and considering the part of delay in disposal of mercy petitions. This is no doubt as I pointed out at, the threshold that this judgment is a landmark one in the legal history.

But, the Courts cannot derive any inspiration on the negative side to refrain from awarding death sentence in horrible rarest of rare cases. The judgment of the Supreme Court shall be understood that by any means, it has not advocated against death penalty. So long as the death penalty is not abolished, the Courts in India shall lean towards visiting notorious criminals with death penalty on being satisfied with parameters laid down in catena of supreme judgments as to rarest of rare cases.

**“JUDGMENT RESERVED” – WITHOUT FIXING THE DATE OF
PRONOUNCEMENT OF JUDGMENT, WHETHER ILLICIT ?**

By

**—POOLLA SAMBASIVA RAO,
Advocate, Narsipatnam**

Very often, we come across; the Judiciary without fixing the date of pronouncement

of judgment is simply writing judgment, reserved, irrespective of the nature of the