

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1935 OF 2011

MOHAMMAD BIN BEERANKUTTI

APPELLANT

VERSUS

STATE OF KARNATAKA

RESPONDENT

O R D E R

1. This appeal is directed against the judgment and order passed by the High Court of Karnataka at Bangalore in Criminal appeal No. 569/2009 with Criminal Referred Case No. 03 of 2009 dated 06.09.2010. By the impugned judgment and order, the High Court while answering the reference has confirmed the conviction and death sentence passed by the Sessions Judge, Chikmagalur in Sessions Case No. 127 of 2007.

2. The facts *in extenso* need not be noticed by us as the same have been comprehensively noted by the courts below. The background of the facts goes to explain the genesis of the incident that took place on 18.06.2007, when Vyjananthi ("the deceased" for short) was standing alone waiting for the bus near the Kadur check post in order to go to Chikmagalur. On the day of the incident, the appellant- Mohammad Bin Beerankutti, the driver of the

taxi, with an ulterior motive to rob the deceased of her gold ornaments and other belongings induced the deceased to board the taxi for her journey to Chikmagalur. On the way to Chikmagalur, the appellant with the said motive had deliberately stopped the vehicle, and after killing the deceased committed robbery. Subsequently, to screen the offence and cause disappearance of the evidence the appellant had thrown the dead body of the deceased in the valley of Charmadi Ghat. The FIR was registered pursuant to the missing complaint lodged by PW-2, the daughter of the deceased.

3. After completion of the investigation, the investigating agency had filed a charge-sheet for the offence punishable under Sections 376, 392, 302 and 201 of the Indian Penal Code("the IPC" for short). The appellant denied the charge framed under the aforesaid sections and pleaded not guilty and, therefore, the trial had commenced against the accused person.

4. The Trial Court after perusing the circumstantial evidence on record and after noting the chain of circumstances in establishing the offence against the appellant has come to the conclusion that the chain of circumstances had definite link, commencing from the event

of the missing of the deceased along with her belongings after boarding the taxi and, thereafter, the recovery of the dead body of the deceased and the other recoveries made on the basis of the information furnished by the appellant. The Trial Court, therefore, placing reliance on the aforesaid evidence convicted and sentenced the appellant to death under Section 302 IPC and to undergo imprisonment for one year for the offence punishable under section 392 of IPC and further sentence for three years under section 201 of IPC.

5. Aggrieved by the aforesaid conviction and sentence passed by the Trial Court, the appellant has appealed before the High Court. The High Court vide its judgment and order has confirmed the death sentence so passed by the Trial Court being of the view that the heinous crime committed by the appellant falls into the category of rarest of rare cases. It is the correctness or otherwise of the judgment and order passed by the Courts below which is called in question by the appellant in this appeal.

6. This Court, while issuing notice, had confined this appeal only to the question of sentence. Therefore, the interference with the judgment and order of conviction and sentence passed by the courts below is not called for,

except the sentencing part of it. The only question that requires our consideration is whether the case would fall with the realm of the rarest of the rare case for the purpose of sustaining the death sentence.

7. With the assistance of Ms. Jyotika Kalra and Mr. V.N. Raghupathy, the learned counsel appearing for the parties, we have carefully perused the reasoning and the conclusion reached by the Courts below for passing the sentence of death penalty against the appellant.

8. The facts in the present case in the light of circumstantial evidence on record are that, the appellant with the motive to rob the gold ornaments of the deceased and in the pretext of taking her to Chikmagalur, actuated her to board the taxi and thereafter robbed her gold jewelleryes and other valuables after killing her. Though it cannot be disputed that the appellant driven by the avarice of monetary benefit committed the offence but in the absence of the manner of commission of the crime on record, it cannot be concluded that the aforementioned characteristics of crime is an instance of what is called a diabolical murder so as to arouse intense and extreme indignation of the community.

9. Insofar as the conviction solely based on

circumstantial evidence is concerned, the chain of events leading to the commission of crime should unerringly point towards the guilt of the accused but if the available evidence on record leads to uncertainty in the manner of the commission of crime then it requires circumspection while deciding the maximum penalty for murder. In the instant case, the dead body of the deceased was recovered in a decomposed state and the manner of the commission of crime as to the injuries caused is not specifically stated in the post-mortem of the deceased, it cannot be said that the act committed had an element of brutality and was such a dastardly act so as to come to the only conclusion of death sentence foreclosing the alternative option of life imprisonment. The ambit of the rarest of the rare dictum as observed in the case of *Ram Singh v. Sonia and Ors.*, {2007 3 SCC 1}; is where the case is considered to be one of the rarest of the rare case and imposition of death penalty is upheld after the accused had not only put an end to the life of her step brother and his whole family which included three tiny tots of 45 days, 2 - 1/2 years and 4 years but also her own father, mother and sister in a very grotesque manner so as to deprive her father from giving the property to her step brother and his family. The fact that murders were committed in such a ghastly manner while the victims were sleeping, without any provocation

whatsoever from the victims' side indicated the cold-blooded and premeditated approach of the accused to cause death of the victims.

10. Taking a holistic view of the entire case, we are of the considered opinion that the present case does not fit into the parameters of the 'rarest of rare cases' and since the manner of commission of crime is not available on record, the nature of offence cannot be said to be brutal to the extent that life imprisonment as a punishment is futile and the sentencing aim of reformation is unachievable. Therefore, while allowing this appeal in part, we modify the sentence to life imprisonment, which means, upto the end of life without any remissions by the State Government.

Ordered accordingly.

JUDGMENT

.....J.
(H.L. DATTU)

.....J.
(RANJAN GOGOI)

NEW DELHI;
JANUARY 29, 2013.