A

EDIGA ANAMMA

V.

STATE OF ANDHRA PRADESH

February 11, 1974.

[V. R. KRISHNA IYER AND R. S. SARKARIA, JJ.]

B *Criminal Law—Practice and Procedure—Offence of murder—Circumstances justifying lesser sentence.*

The appellant, a rustic young woman, flogged out of her husband's house by her father-in-law, was living with her parents with her only child. She committed a premeditated, cleverly planned murder of another young woman and her child because of rivalry between the appellant and the murdered woman for the affections of an illicit lover. The Sessions court awarded the death sentence and the High Court confirmed.

C In appeal to this Court.

HELD : The death sentence must be dissolved and life sentence substituted.

(i) Modern penology regards crime and criminal as equally material when the right sentence has to be picked out although in our processual system there is neither comprehensive provision nor adequate machinery for collection and presentation of social and personal data of the culprit to the extent required in the verdict on sentence. However, in the Criminal Procedure Bill, 1973,
D Parliament has wisely written into the law a post conviction stage when the judges shall "hear the accused on the question of sentence and then pass sentence on him according to law." [334 C]

The unmistakable shift in legislative emphasis is that life imprisonment for murder is the rule and capital sentence the exception to be resorted to for reasons to be stated. The disturbed conscience of the state on the vexed question of legal threat to life by way of death sentence has sought to express itself legislatively, the stream of tendency being towards cautious partial
E abolition and the retreat from total retention. [336 H]

Code of Criminal Procedure Section 367(5) as amended by Act 26 of 1955; Criminal Procedure Bill, 1973, Sections 235, 238 and 354(3); Indian Penal Code (Amendment) Bill, 1972, Section 122, referred to.

(ii) The case on hand has to be disposed of under the present Code and the Court has to fall back upon the method of judicial hunch in imposing or avoiding capital sentence aided by such circumstances as are present on the
F record introduced for the purpose of proving guilt. [334 D]

(iii) In the present case the criminal's social and personal factors, her feminity and youth, her unbalanced sex and expulsion from the conjugal home and being the mother of a young boy—these individually inconclusive and cumulatively marginal facts and circumstances tend towards awarding of life imprisonment. [339 B—C]

Further, the Sessions Judge pronounced the death penalty on December,
G 31, 1971 and the appeal is being heard in February 1974. This prolonged agony has ameliorative impact according to the rulings of this Court.

Piara Dusadh v. *Emperor* A.I.R. 1944 F.C.I.; *N. Sreeramula* v. *State of Andhra Pradesh*, 1973 C.L.J. 1773; *State of Bihar* v. *Pashupati Singh*, A.I.R. 1973 S.C. 2699. referred to.

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 67 of 1973.

H Appeal by Special Leave from the Judgment and Order dated the 24th March, 1972 of the Andhra Pradesh High Court in Criminal Appeal No. 12 of 1972 and Referred Trial No. 1 of 1972.

R. P. Kathuria, amicus curiae for the appellant. A

P. Ram Reddy and *P. P. Rao* for the respondent.

The Judgment of the Court was delivered by

KRISHNA IYER, J. In a rural region of Andhra Pradesh Frendian fury or explosion of sex jealousy expressed itself in a gruesome murder of a young woman and her tender child by the accused, a young woman, with an only child ten years old, all, because notwithstanding both being married, they had invested amorous affections in a middle-aged libertine, P.W. 16, conveniently a widower. It is an admitted fact that the accused, although married, was keeping illicit relations with P.W. 16, a shepherd, but she discovered that lately her paramour was on flirting contacts with the deceased. This knowledge angered her so much that she extinguished the life of her rival on November 4, 1971 in the afternoon in a jungle, manipulating her murderous venture so cleverly that for a time people thought that she was the murdered and searched for her body. Closer enquiry revealed that the victim was Ansuya and the other innocent one her baby less than two years old. B C

Shri Kathuria, appearing as *amicus curiae,* has presented a painstakingly meticulous argument on behalf of the prisoner, who has been condemned to death by the courts below. It is but meet that we appreciate the industrious advocacy enthusiastically made by this young advocate. D

By sundown on November 4, 1971 a cadaver was found in a field outside the village of Konapur, Medak District, Andhra Pradesh. The deceased was a damsel who was first mistaken to be the accused because her face had been burnt out of recognition and on her body was found clothing which belonged to the accused—a device resorted to, as later evidence discloses, by the accused to throw enquirers off the scent. On November 8, 1971 the dead body of a baby, Nirmala, daughter of Ansuya, the deceased, was recovered from the sand bed of a stream near the field. Investigations disclosed that Anamma, the accused, was the perpetrator of this fiendish crime. She was duly prosecuted, convicted and sentenced to death for the offence of murder and life imprisonment for secreting evidence of the crime, under s. 201, I.P.C. An appeal by the accused and a referred trial under the Code resulted in a Bench of the High Court affirming the guilt and upholding the sentence. A jail appeal has come before us, argued by Shri Kathuria as *amicus curiae.* E F G

The people involved are more or less primitive rustics and sex inhibitions do not appear to have interdicted private philandering. The prisoner had been married to P.W. 7 of Ankenpally, three miles distant from Konapur where her parents resided. Carnal knowledge with P.W. 16 developed even when she was in her husband's house and she manifested her passion by stealing gold rings from the house of one Rachappa to make it over to P.W. 16 as a memento of her illicit love. Indeed, this little stealing, induced by her improper H

A relations with P.W. 16, was discovered. She suffered flagellation from her father-in-law for this act, and her father, P.W. 2, removed her to his own house as a sequel. The setting of Konapur did not stand in the way of her continued intimacy with P.W. 16, who responded by shifting to this village himself.

B The deceased, Ansuya, was the wife of P.W. 12 who was, as ill-luck would have it, the neighbour of the accused's family. Opportunity tempted and Ansuya also established erotic contact with that lascivious, P.W. 16. The prisoner, in due course, came to know about the shifting of affections by her paramour who tried to bluff her in vain. Fired by jealously the prisoner fixed her mind upon liquidating her rival.

C

On November 4, 1971 at about 3 p.m. the ill-starred Ansuya had left for the fields taking the baby with her. The accused tempted and shadowed her, with some clothes from her house to be washed in the the village stream. P.W. 15, P.W. 4 and P.W. 13 have given testimony which, if believed, will show that the accused and the
D deceased were seen together in the fatal field at about 5 p.m., the day the mother and child died. It is said that the accused had removed a chisel from her house as she proceeded to the field and used it to lethal purpose. The medical evidence shows that Ansuya and Nirmala were stabbed to death with a chisel identified by the accused's own father, P.W. 2, and the blacksmith who made it, P.W. 15. Apparently overborne with uncontrollable hatred for the woman who
E hijacked her paramour's sexual affection, the accused had planned to kill with cunning. The manner of stabbing to death was bad enough; it was more brutal for her to have disfigured the face of the victim which was found burnt. With a view to mislead and thereby evade easy detection she removed from the deceased's body her clothes and clothed it with a langha belonging to herself. She removed the child's body, wrapped it in a piece of cloth brought by her and buried it
F beneath the river sand. Thereafter she made towards the house of P.W. 11, her uncle, told P.W. 16 what she had done and pressed him to elope with her. The sense of safety of P.W. 16 prevailed over his urge for sex relations with this girl and so he declined to follow her. The desparate woman left for her husband's village, while a search for her was being made by P.W. 2, her father. The dead body in the field was found covered with the accused's clothing
G and beguiled by this circumstance P.W. 2 reported to the police Patel, P.W. 5 (Ex. P 1) that his daughter had been murdered, perhaps by her father-in-law. Taken in by this report, the Patel informed the police and the Sub-Inspector, P.W. 26, proceeded to the scene of occurrence, held inquest and sent the body for post-mortem examination. P.W. 22, the doctor, did the autopsy in the afternoon of November 5, 1971 and the body was brought back to
H Konapur by sundown. The Inspector of Police took over the investigation, took into custody the clothes near the scene and questioned a number of persons in the village. The tragic body was being made ready for cremation when the Patel of village Ankanpally, P.W. 10,

moved down to the place with the accused, to the bewilderment of the people gathered. Meanwhile, P.W. 12, the husband of Ansuya, finding his wife and child missing, went in search of them in vain. The tidings came of the dead body and the revelation that it was not that of the accused, as originally suspected. So apprehension turned on the dead body being that of Ansuya. They went to the place but it was night and the next morning, *i.e.*, November 6, 1971, P.W. 12—the husband—and P.W. 13—the mother-in-law—examined the corpse and to their shock discovered it to be the body of Ansuya. A Panchnama, P-10, was prepared. P.W. 12 reported to the police officer, P.W. 27 (Ex. P-2) and investigations revived in the new direction. P.W. 27 sent for the accused, who wanted to see her son, and they all met at the police station. P.W. 16 turned up at the police station, and breaking down perhaps under the stress of all that had happened, the accused said that she would confess. Ex. P-7, the confession, was recorded which led to the discovery of the child's body, the bundle containing the burnt clothes and chisel, etc. (Ex. P-8). The langha of the accused was also recovered (Ex. P-9). Post-mortem was done over the body of the child, the accused was arrested and eventually she was charged with offences under s. 302 and s. 201, I.P.C.

Of course, there is no direct evidence in the case but the prosecution has placed a clinching wealth of circumstances and an extra-judicial confession to P.W. 16 to substantiate its version. It is trite law that Ex. P-7, the confession made while in police custody, is inadmissible except to the narrow extent salvaged by discoveries made in terms of s. 27 of the Evidence Act. We are left, therefore, with the confessional statement made to P.W. 16 orally. If it can be invested with veracity the guilt of the accused is virtually made out. But it is common-place law—and vehemently urged—that a retracted confession made orally to a near-villain like P.W. 16, who had reason to play for safety, was liable to be rejected without a second look at the statement. The High Court—and the Sessions Court—have considered the many weaknesses relating to this confession. Those defects have been pointed as deadly by counsel for the appellant. We are satisfied that the credence given to it by the courts below cannot be treated as strange or otherwise seriously erroneous. Certainly he had no ill-feeling for the accused and nothing palpably improbable has been made out in the spontaneous unburdening of her bosom by the accused in distress, hastening to her paramour after the murder in the hope that she would now vanish with her lover, and telling him the murderous truth. Marginal mistrust generated by counsel's argument is inadequate to reject the testimony of P.W. 16. However, there are circumstances attaching to his whereabouts and the slight delay in his statement to the police and the dubiety of his character which permitted his openly wearing a stolen gold ring received from another man's wife. It is but fair, therefore, for the Court to search for convincing corroboration. The precedents cited before us by counsel for the appellant take us no further than the need to ask for satisfactory reinforcement of a retracted confession, not too good to be treated as sufficient in itself to fasten the guilt.

A We are, therefore, thrown to the task of evaluating the circumstances and the extent to which they buttress up the self-incrimination content in the confession.

Motive by itself is not much, particularly in the absence of direct evidence, but in the company of other factors it plays a probative role. The discovery of the child's dead body and the clothes belonging to the accused, as well as the chisel of P.W. 2, the father, which was admittedly missing, are a clear pointer to the guilt, although by themselves do not cover the entire distance from "may be" to "must be" in the proof of guilt. The noose of guilt is tightened by the testimony of P.Ws. 4, 13 and 15. P.W. 13, the mother-in-law of Ansuya, deposed that the deceased, her daughter-in-law, went out to fetch vegetables from the fields and the accused was seen following her with a bundle of clothes to wash them in the stream. P.W. 15, an apparently disinterested man, speaks of having seen the accused at Khallam at about 5 p.m. near where the deceased also was. Although the trial court did not choose to believe him, the appellate court thought that it was not risky to rely on his testimony. P.W. 4 also swore to having seen the accused at Khallam at about sundown on the relevant date. This shepherd also states that he saw the deceased collecting firewood near about there and heard the cries of a girl. There has been a detailed discussion of the evidence of these witnesses by the High Court and notwithstanding the attempt elaborately made by Shri Kathuria, the evidence of these witnesses has not been fractured or rendered incredible.

The fact that the accused was seen last with the deceased in a place where and at a time when few others were around, the fact that the deceased's body was covered cleverly by the clothes of the accused—foolishly, as we now see by hind-sight—the discovery of telltale clothes on the baby's body, the lethal chisel, her blood-stained skirt concealed in the bush, all strongly probabilise the truth of the confession. In a well-considered judgment the learned Judges of the High Court have covered all the relevant evidence and reached the unhesitating conclusion that the accused had done to death Ansuya and Nirmala. Shri Kathuria's persistent effort to attack almost every part of the prosecution evidence testifies to his industry, which we appreciate, but hardly carries conviction. All the circumstances converge towards the focal point of guilt of the accused, her fatuous assumption that others would be deceived along a wrong trail has failed, and the impending cremation which would have blotted out a vital evidence was averted and truth has come out. We have hardly any doubt that the conviction deserves to be confirmed.

Counsel for the State correctly drew our attention to the great limitations on the exercise of the extraordinary jurisdiction under art. 136 of the Constitution, particularly, when dealing with the concurrent findings of fact. He is right in contending that we should dismiss arguments which nibble at the credibility of witnesses. But finding the case hanging on a retracted extra-judicial confession from

a person who does not necessarily inspire great confidence, corroborated only by circumstantial evidence, we thought it proper to make a conscientious search to see if truth had been reached and miscarriage of justice averted. We are satisfied, as already stated, that the accused's guilt, to the extent human instruments can apprehend, has been made out.

Guilt once established, the punitive dilemma begins. The choice between death penalty and life term has to be made in a situation which is not altogether satisfactory. Modern penology regards crime and criminal as equally material when the right sentence has to be picked out, although in our processual system there is neither comprehensive provision nor adequate machinery for collection and presentation of the social and personal data of the culprit to the extent required in the verdict on sentence. However, in the Criminal Procedure Code, 1973, about to come into force, Parliament has wisely written into the law a post-conviction stage when the Judges shall "hear the accused on the question of sentence and then pass sentence on him according to law." (s. 235 & s. 248).

The case on hand has to be disposed of under the present Code and we have to fall back upon the method of judicial hunch in imposing or avoiding capital sentence, aided by such circumstances as are present on the record introduced for the purpose of proving guilt. We are aware that in *Jagmohan Singh* v. *State of U.P.*(1), there was an argument about the absence of procedure laid down by the law for determining whether the sentence of death or something less is appropriate in the case. The Court viewed this criticism from the constitutional angle and observed :

> "The Court is primarily concerned with all the facts and circumstances in so far as they are relevant to the crime and how it was committed and since at the end of the trial he is liable to be sentenced, all the facts and circumstances bearing upon the crime are legitimately brought to the notice of the court. Apart from the cross-examination of the witnesses, the Criminal Procedure Code requires that the accused must be questioned with regard to the circumstances appearing against him in the evidence. He is also questioned generally on the case and there is an opportunity for him to say whatever he wants to say. He has a right to examine himself as a witness, thereafter, and give evidence on the material facts. Again he and his counsel are at liberty to address the court not merely on the question of guilt but also on the question of sentence. In important cases like murder the court always gives a chance to the accused to address the court on the question of sentence."
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> "The sentence follows the conviction, and it is true that no formal procedure for producing evidence with reference

(1) [1973] 1 S. C. C. 20.

A to the sentence is specifically provided. The reason is that relevant facts and circumstances impinging on the nature and circumstances of the crime are already before the court."

In any scientific system which turns the focus, at the sentencing stage, not only on the crime but also the criminal, and seeks to B personalise the punishment so that the reformatory component is as much operative as the deterrent element, it is essential that facts of a social and personal nature, sometimes altogether irrelevant if not injurious at the stage of fixing the guilt, may have to be brought to the notice of the Court when the actual sentence is determined.

C The prisoner is a young woman of 24 flogged out of her husband's house by the father-in-law, living with her parents with her only child, — sex-starved and single. The ethos of the rural area where the episode occurred does not appear to have been too strict or inhibitive in matters of sex, for the deceased and the accused were both married and still philandered out of wedlock with P.W. 16, a middle-aged widower who made no bones about playing the free-D lance romancer simultaneously with them. Therefore, the accused incautiously slipped down into the sex net spread by P.W. 16, and while entangled and infatuated, discovered in the deceased a nascent rival. With the reckless passion of a jealous mistress she planned to liquidate her competitor and crudely performed the double murder, most foul. Perhaps it may be a feable extenuation to remember that the accused is a young woman who attended routinely to the chores E of domestic drudgery and allowed her flesh to assert itself salaciously when invited by uncensured opportunity for lonely meetings with P.W. 16. It may also be worth mentioning that, apart from her youth and womanhood, she has a young boy to look after. What may perhaps be an extrinsic factor but recognised by the court as of humane significance in the sentencing context is the brooding horror of 'hanging' which has been haunting the prisoner in her condemned F cell for over two years. The Sessions Judge pronounced the death penalty on December 31, 1971, and we are now in February 1974. This prolonged agony has ameliorative impact according to the rulings of this Court. The leading case in *Piara Dusadh* v. *Emperor*(1) was relied upon by this Court in *N. Sreeramula* v. *State of Andhra Pradesh*(2). The following passage from the Federal Court decision is telling:

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> "In committing the offence the appellant must have been actuated by jealousy or by indignation either of which would tend further to disturb the balance of his mind. He has besides been awaiting the execution of this death sentence for over a year. We think that in this case a sentence of transportation for life would be more appropriate than the sentence of death."

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(1) A. I. R. [1944] F. C. I. (2) (1974) C. L. J. 1775.

The decision in *State of Bihar* v. *Pashupati Singh*(1) strikes a similar note. Although this consideration is vulnerable to the criticism made by counsel for the State that as between two capital sentence cases that which is delayed in its ultimate disposal by the courts receives the less terrible punishment while the other heard with quick despatch, for that very reason, fails to relieve the victim from condemnation to death.

In this unclear situation it is unfortunate that there are no penological guidelines in the statute for preferring the lesser sentence, it being left to *ad hoc* forensic impressionism to decide for life or for death. Even so, such sentencing material as we have been able to salvage from the guilt material in the paper book persuades us to award life imprisonment to the prisoner and modify to that extent the death sentence imposed by the courts below.

It behoves us to indicate why we have chosen this course. In the twilight of law in this area, we have been influenced by the seminal trends present in the current sociological thinking and penal strategy in regard to murder. We have also given thought to the legal changes wrought into the penal code in free India. We confess to the impact made on us by legislative and judicial approaches made in other countries although we have warned ourselves against transplanting into our country concepts and experiences valid in the West.

It cannot be emphasised too often that crime and punishment are functionally related to the society in which they occur, and Indian conditions and stages of progress must dominate the exercise of judicial discretion in this case.

In India the subject of capital punishment has abortively come before Parliament earlier, although our social scientists have not made any sociological or statistical study in depth yet. On the statutory side there has been a significant change since India became free. Under s. 367(5) of the Criminal Procedure Code, as it stood before its amendment by Act 26 of 1955, the normal rule was to sentence to death a person convicted for murder and to impose the lesser sentence for reasons to be recorded in writing. By amendment, this provision was deleted with the result that the court is now free to award either death sentence or life imprisonment, unlike formerly when death was the rule and life term the exception, for recorded reasons. In the new Criminal Procedure Code, 1973 a great change has overtaken the law. Section 354(3) reads :

> "354(3) When the conviction is for an offence punishable with death or, in the alternative, with imprisonment for life or imprisonment for a term of years, the judgment shall state the reasons for the sentence awarded, and, in the case of sentence of death, the special reasons for such sentence."

The unmistakable shift in legislative emphasis is that life imprisonment for murder is the rule and capital sentence the exception to be

(1) A. I. R. 1973 S. C. 2699.

A resorted to for reasons to be stated. In this context it may not be out of place to indicate—not that it is conclusive since it is now tentative—that under the Indian Penal Code (Amendment) Bill, 1972, s. 302 of the Penal Code has been substituted by a less harsh provision limiting death penalty to a few special cases (vide s. 122 of the new bill).

B It is obvious that the disturbed conscience of the State on the vexed question of legal threat to life by way of death sentence has sought to express itself legislatively, the stream of tendency being towards cautious, partial abolition and a retreat from total retention.

Jagmohan Singh(1) has adjudged capital sentence constitutional and whatever our view of the social invalidity of the death penalty, personal predilections must bow to the law as by this Court declared, adopting C the noble words of Justice Stanley Mosk of California uttered in a death sentence case : "As a judge, I am bound to the law as I find it to be and not as I fervently wish it to be". (The Yale Law Journal, Vol. 82, No. 6, P.1138). Even so, when a wise discretion vests in the court, what are the guidelines in this life and death choice ? The humanism of our Constitution, echoing the concern of the Universal Declaration of Human Rights, is deeply concerned about the worth of the human D person. Ignoring the constitutional content of *Anderson*(2), and *Furman*(3), the humanist thrust of the judicial vote against cruel or unusual punishment cannot be lost on the Indian judiciary. The deterrence strategists argue that social defence is served only by its retention,—thanks to the strong association between murder and capital punishment in the public imagination,—while the correctional therapists urge the reform of even murderers and not to extinguish them by E execution. History hopefully reflects the march of civilization from terrorism to humanism and the geography of death penalty depicts retreat from country after country. The U.K. and the U.S.A. are notable instances. Among the socialist nations it has been restricted to very aggravated forms of murder. The *lex talionis* principle of life for life survives in some States still, only to highlight that in punitive practice, as in other matters we do not live in 'one world' but do move F zigzag forward to the view that the uniquely deterrent effect of death penalty is, in part, challenged by jurists, commissions and statistics. But as a counterweight we have what an outstanding justice of the Ontario appeal court said some years ago(4) :

> "The irrevocable character of the death penalty is a reason why all possible measures should be taken against injus- G tice—not for its abolition. Nowadays, with the advent of armed criminals and the substantial increase in armed robberies, criminals of long standing if arrested, must expect long sentences. However, if they run no risk of hanging, when found guilty of murder, they will kill policemen and witnesses with the prospect of a future no more unhappy, as one of them put it, than being fed, lodged, and clothed for the rest of their H lives."

(1) [1973] 1 S. C. C. 20. (2) 100 California Reporter 152
(3) 408 U S-218 (4) Capital Punishment—Thorstn Sellin p. 83

The final position, as we see it, is neither with the absolute abolitionist nor with the Mosaic retributionist. It is relativist, and humanist, conditioned by the sense of justice and prevailing situation of the given society. In England, men once believed it to be just that a thief should lose his life (as some Arab Chieftains do to-day) but the British have gone abolitionist now without regrets. In contemporary India, the *via media* of legal deprivation of life being the exception and long deprivation of liberty the rule fits the social mood and realities and the direction of the penal and processual laws.

While deterrence through threat of death may still be a promising strategy in some frightful areas of murderous crime, to espouse a monolithic theory of its deterrent efficacy is unscientific and so we think it right to shift the emphasis, to accept composite factors of penal strategy and not to put all the punitive eggs in the 'hanging' basket but hopefully to try the humane mix.

We assume that a better world is one without legal knifing of life, given propitious social changes. Even so, to sublimate savagery in individual or society is a long experiment in spiritual chemistry where moral values, socio-economic conditions and legislative judgment have a role. Judicial activism can only be a signpost, a weather vane, no more. We think the penal direction in this jurisprudential journey points to life prison normally, as against guillotine, gas chamber, electric chair, firing squad or hangmen's rope. 'Thou shalt not kill' is a slow commandment in law as in life, addressed to citizens as well as to States, in peace as in war. We make this survey to justify our general preference where s. 302 keeps two options open and the question is of great moment.

Let us crystallise the positive indicators against death sentence under Indian Law currently. Where the murderer is too young or too old, the clemency of penal justice helps him. Where the offender suffers from socio-economic, psychic or penal compulsions insufficient to attract a legal exception or to downgrade the crime into a lesser one, judicial commutation is permissible. Other general social pressures, warranting judicial notice, with an extenuating impact may, in special cases, induce the lesser penalty. Extraordinary features in the judicial process, such as that the death sentence has hung over the head of the culprit excruciatingly long, may persuade the court to be compassionate. Likewise, if others involved in the crime and similarly situated have received the benefit of life imprisonment or if the offence is only constructive, being under s. 302 read with s. 149, or again the accused has acted suddenly under another's instigation, without premeditation, perhaps the court may humanely opt for life, even like where a just cause or real suspicion of wifely infidelity pushed the criminal into the crime. On the other hand, the weapons used and the manner of their use, the borrandous features of the crime and hapless, helpless state of the victim, and the like, steal the heart of the law for a sterner sentence. We cannot obviously feed into a judicial computer all such situations since they are astrological imponderables in an imperfect and undulating society. A legal

A policy on life or death cannot be left for *ad hoc* mood or individual predilection and so we have sought to objectify to the extent possible, abandoning retributive ruthlessness, amending the deterrent creed and accenting the trend against the extreme and irrevocable penalty of putting out life.

B Here, the criminal's social and personal factors are less harsh, her feminity and youth, her unbalanced sex and expulsion from the conjugal home and being the mother of a young boy—these individually inconclusive and cumulatively marginal facts and circumstances tend towards award of life imprisonment. We realise the speculative nature of the C correlation between crime and punishment in this case, as in many others, and conscious of fallibility dilute the death penalty. The larger thought that quick punishment, though only a life term, is more deterrent than leisurely judicial death award with liberal interposition of executive clemency, and that stricter checking on illicit weapons by the police deters better as social defense against murderous violence than a D distant death sentence, is not an extraneous component in a court verdict on form of punishment.

We have indicated enough to hold that, marginal vaccilation notwithstanding, the death sentence must be dissolved and life sentence substituted. To this extent the appeal is allowed, but otherwise the conviction is confirmed.

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K.B.N. *Appeal allowed in part.*