

A

## SRIRANGAN

v.

## STATE OF TAMIL NADU

November 30, 1977

[V. R. KRISHNA IYER, N. L. UNTWALIA AND P. S. KAILASAM, JJ.]

B

*Sentence—Choice between life term and death penalty in awarding sentence—Criminal Procedure Code, 1973 (Act II of 1974), Section 354(3), scope of.*

The appellant young in age and a mental case was prosecuted, convicted and sentenced to death for the offence of triple murders, since the testimony of dementia fell far short of the prescription in s. 84, I.P.C. The appeal before the High Court having failed, this Court granted Special leave confined to the question of sentence.

C

Maintaining the conviction but modifying the death sentence to one of life imprisonment, the court,

HELD : In this agonisingly sensitive area of sentencing, especially in the choice between life term and death penalty, a wide spectrum of circumstances attract judicial attention since they are all inarticularly implied in the penological part of s. 302, I.P.C., read with s. 254(3) Cr. P.C., 1973. The plurality of factors bearing on the crime and the doer of the crime must carefully enter the judicial verdict. The winds of penological reform notwithstanding the prescription in s. 302 binds and death penalty is still permissible in the punitive pharmacopoeia of India.

D

In the instant case the lesser penalty of life imprisonment will be a more appropriate punishment. [271 A-C]

*Nanu Ram v. State of Assam*, A.I.R. 1975 S.C. 762 followed.

E

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 470 of 1977.

Appeal by Special Leave from the Judgment and Order dated 20-4-1976 of the Madras High Court in Criminal Appeal No. 708/75 and Referred Trial No. 39/75.

F

*V. Mayakrishnan*, *amicus curiae* for the Appellant.

*A. V. Rangam* for the Respondent.

The Judgment of the Court was delivered by

G

KRISHNA IYER, J.—A toddy tapper, young in age and a mental case, returning after a day-long toil with his tool, the sickle, and tense in state, was provoked by some trivials and went into tantrums and inflicted triple killings, all in one sombre sunset. This bleeding tragedy led to prosecution and conviction, appeal and confirmation, the unimpeachable offence being murder. The defence of insanity tested by the hoary rule in *McNaghten's* case, codified in the Indian Penal Code over hundred years ago, was rightly dismissed, the testimony of dementia falling far short of the prescription in section 84 I.P.C. We

H

have discovered no error in the factual finding and must therefore confirm the conviction. Indeed, leave itself was granted confined to the question of sentence.

The trial Judge, whose horror at the multiple homicide unsheathed the terror of death penalty, decreed capital sentence on the culprit, and the High Court, deeply disturbed by "the brutal triple murder", set its seal of approval on guilt and punishment.

In the agonisingly sensitive area of sentencing, especially in the choice between life term and death penalty, a wide spectrum of circumstances attracts judicial attention, since they are all inarticulately implied in the penological part of s. 302 I.P.C. read with s. 354(3) Cr. P.C. The plurality of factors bearing on the crime and the doer of the crime must carefully enter the judicial verdict. The winds of penological reform notwithstanding, the prescription in s. 302 binds and death penalty is still permissible in the punitive pharmacopoeia of India. Even so, the current of precedents and the relevant catena of clement facts, personal, social and other, persuade us to hold that, even as in *Nanu Ram v. State of Assam* (A.I.R. 1975 S.C. 762), the lesser penalty of life imprisonment will be a more appropriate punishment here.

We set aside the death sentence and award imprisonment for life to the appellant under s. 302 I.P.C. The appeal is disposed of accordingly.

S.R.

*Sentence reduced.*