

SC COMMUTES DEATH PENALTY IN RAPE CASE

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The death penalty should be resorted to by courts only if the crime is an “uncommon” one, the Supreme Court has held.

No mitigating circumstances of the convict should be able to overcome the aggravation or, for one, the brutality of the crime, the court explained.

The crime should be of a nature that leaves the court with the opinion that life sentence would be inadequate. There should be no alternative but the death penalty.

“All murders are inhuman. For imposing capital sentence, the crime must be uncommon in nature where even after taking into account the mitigating circumstances, the court must be of the opinion that the sentence of imprisonment for life is inadequate and there is no alternative but to impose death sentence,” a three-judge Bench of Justices A.M. Khanwilkar, Dinesh Maheshwari and C.T. Ravikumar observed in a recent judgment.

The case was regarding the “heinous and brutal” rape and murder of an eight-year-old by her uncle.

Justice C.T. Ravikumar, who wrote the judgment, said the nature of commission of crime, the victim being a relative and the hapless situation of the girl and the “shocking” injuries found on the child were all aggravating circumstances. But the mitigating circumstances also count.

Mitigating factors

“The undisputable fact that the appellant had no criminal antecedents, he hails from a poor socio-economic background and also his unblemished conduct inside the jail cannot go unnoticed. So also, it is a fact that at the time of commission of the offence the appellant was aged 25 years,” the court noted.

The Supreme Court said it cannot rule out the possibility and the probability of the reformation and rehabilitation of the appellant.

“The long and short of the discussion is that the present case cannot be considered as one falling in the category of ‘rarest of rare cases’ in which there is no alternative but to impose death sentence,” Justice Ravikumar reasoned.

The Supreme Court-Bench of Justices A.M. Khanwilkar, Dinesh Maheshwari and C.T. Ravikumar commuted the death penalty of the convict to life sentence with no remission for 30 years of the imprisonment.

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