

2023 LiveLaw (SC) 305

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
M.R. SHAH; J., C.T. RAVIKUMAR; J.**

April 13, 2023.

CRIMINAL APPEAL NO. OF 2023 (@ Special Leave Petition (Crl.) No.12674/2022)

THE STATE OF MAHARASHTRA & ORS. versus RENUKA @ RINKU @ RATAN KIRAN SHINDE & ORS.

Death Penalty - Supreme Court directs all the States/appropriate authorities to decide mercy petitions against death sentences at the earliest so that the benefit of delay is not accrued to the accused.

Death Penalty - Even if death penalty is to commuted in view of inordinate delay in deciding mercy petition, an order to commute the death sentence to life imprisonment for natural life without any remission ought to be passed.

(Arising out of impugned final judgment and order dated 18-01-2022 in CRLWP No. 3103/2014 passed by the High Court of Judicature at Bombay)

For Petitioner(s) Mr. Siddharth Dharmadhikari, Adv. Mr. Aaditya Aniruddha Pande, AOR Mr. Bharat Bagla, Adv. Mr. Sourav Singh, Adv.

For Respondent(s) Ms. Ankita Chaudhary, Amicus Curiae Mr. Shreyas Balaji, Adv. Mr. Abhinav Shrivastava, Adv. Ms. Radhika Jalan, Adv. Mr. Shivang Rawat, Adv. Ms. Aishwarya Bhati, A.S.G. Ms. Ayushi Nagar, Adv. Mr. Aman Mohiyal, Adv. Mr. Kanu Agarwal, Adv. Mr. Rajat Nair, Adv. Mr. Vatsal Joshi, Adv. Mr. Aman Sharma, Adv. Mr. Saurabh Mishra, Adv. Mr. Arvind Kumar Sharma, AOR

ORDER

Leave granted.

We have heard Shri Siddharth Dharmadhikari, learned counsel appearing on behalf of the State of Maharashtra, Ms. Ankita Chaudhary, learned Amicus Curiae on behalf of the original accused and Ms. Aishwarya Bhati, learned ASG appearing on behalf of the Union of India.

Feeling aggrieved and dissatisfied with the impugned judgment and order dated 18-01-2022 passed by the High Court of Judicature at Bombay in CRLWP No. 3103/2014, by which the High Court has commuted the death sentences imposed on the accused to one of the life imprisonment, the State of Maharashtra and others have preferred the present appeal.

From the impugned judgment and order passed by the High Court, it appears that the High Court has commuted the death sentence to life imprisonment on the ground that there was an inordinate unexplained delay on the part of the State/Governor of the State in not deciding the mercy petition(s) preferred by the accused which, as such, were kept pending for about 7 years and 10 months.

In the case of **Jagdish Vs. State of Madhya Pradesh (2020) 14 SCC 156**, this Court directed to commute the death sentence to life imprisonment taking into consideration the delay in disposal of the mercy petition of above 5 years. There are other decision also commuting the death sentence to life imprisonment on the ground of delay in disposal of the mercy petition(s) as under –

Sl. No.	Particulars	Citation
1	Madhu Mehta v. Union of India	(1989) 4 SCC 62
2	Daya Singh v. Union of India & Ors.	(1991) 3 SCC 61
3	Mahendra Nath Dass v. Union of India & Ors.	(2013) 6 SCC 253
4	Shatrughan Chauhan v. Union of India	(2014) 3 SCC 1

5	Navneet Kaur v. NCT of Delhi	(2014) 7 SCC 264
6	V. Sriharan Alias Murugan v. Union of India & Ors.	(2014) 4 SCC 242
7	Ajay Kumar Pal v. Union of India & Anr.	(2015) 2 SCC 478
8	Union of India & Ors. v. Dharam Pal	(2019) 15 SCC 388

It is true that the gravity of the offence can be a relevant consideration while commuting the death sentence to life imprisonment, however, inordinate delay in disposal of the mercy petitions can also be said to be a relevant consideration while commuting the death sentence to life imprisonment. If even after the final conclusion even upto this Court, even, thereafter there is an inordinate delay in not deciding the mercy petition, the object and purpose of the death sentence would be frustrated. Therefore, as such, all efforts shall be made by the State Government and/or the concerned authorities to see that the mercy petitions are decided and disposed of at the earliest, so that even the accused can also know his fate and even justice is also done to the victim.

In view of the above, the impugned judgment and order passed by the High Court commuting the death sentence to life imprisonment is not required to be interfered with. However, at the same time, the learned counsel appearing on behalf of the State as well as Ms. Ms. Aishwarya Bhati, learned ASG appearing on behalf of the Union of India are justified in making the grievance that in death case and even the Hon'ble High Court is right in commuting the death sentence to life imprisonment, in that case also even considering the various decisions of this Court including in the case of **Jagdish (supra)** and looking to the seriousness and gravity of the offence committed by the accused, namely nine persons were killed, the High Court ought to have passed an order to commute the death sentence to life imprisonment for natural life without any remission. If such an order would have been passed, it would be in the fitness of things and may give solace to the victims.

In view of the above and for the reasons stated hereinabove, present appeal succeeds in part. The impugned judgment and order passed by the High Court commuting the death sentence to life imprisonment is hereby modified and it is directed that the accused to undergo life imprisonment for natural life and without any remission.

The present Appeal is partly allowed to the aforesaid extent.

Before we part with the present order, we observe and direct all the States/appropriate authorities before whom the mercy petitions are to be filed and/or who are required to decide the mercy petitions against the death sentence, such mercy petitions are decided at the earliest so that the benefit of delay in not deciding the mercy petitions is not accrued to the accused and the accused are not benefited by such an inordinate delay and the accused may not take the disadvantage of such inordinate delay.

We appreciate the efforts made by Ms. Ankita Chaudhary, learned counsel, who has assisted the Court as Amicus Curiae.

The Registry is directed to communicate this order to the Chief Secretaries of all the States and Union Territories.