REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
REVIEW PETITION (CRIMINAL) NO. 301 OF 2008
IN
CRIMINAL APPEAL NO. 680 OF 2007

ACCUSED 'X' ...PETITIONER

VERSUS

STATE OF MAHARASHTRA ...RESPONDENT

J U D G M E N T

N. V. RAMANA, J.

1. The instant proceedings pertain to the reopening of Review Petition (Crl.) No. 301 of 2008 to review the final Judgment and Order dated 16.05.2008 passed by this Court in Criminal Appeal No. 680 of 2007 dismissing the appeal filed by the Review Petitioner (hereinafter "the Petitioner") and confirming his conviction under Sections 201, 363, 376 and 302 of the Indian Penal Code (in short, "the IPC"). Vide the impugned judgment, this Court upheld the sentence of 2 years' rigorous imprisonment

each under Sections 201 and 363, 10 years' rigorous imprisonment under Section 376 and the death sentence under Section 302, IPC imposed upon the Petitioner.

2. This petition raises complex questions concerning the relationship between mental illness and crime. How can culpability be assessed for sentencing those with mental illness? Is treatment better suited than punishment? These are some of the questions we need to reflect upon in this case at hand.

3. In line with Section 23 (1) of the Mental Healthcare Act, 2017, (Act 10 of 2017) and the right to privacy of the accused herein, while taking further action on this judgment, we direct the Registry to not disclose the actual name of the accused and other pertinent information which could lead to his identification as it concerns confidential information. In this context we shall address the accused herein as 'accused x'.

4. Brief facts giving rise to the present petition are as follows; the two deceased, viz. victim-1 (studying in the 4th standard) and victim-2 (studying in the 1st standard) were cousins staying at Gulumb, Maharashtra, in a locality of homeless people (Beghar Vasti) at the house of Ramdas Jadhav (PW-13, victim-1's father).

The Petitioner lived in the adjacent house with his family. On 13.12.1999, at about 6 p.m., the Petitioner had gone to the grocery shop run by Sunil (PW-6), with his daughter, Reshma (PW-8), where he met the two deceased girls, and on the pretext of offering sweets, he led the girls to accompany him. Thereafter, he committed the rape and murder of both girls, and threw victim-2's body in a well situated in the field of the father of Sakharam Bhiku Yadav (PW-11), and concealed the body of victim-1 in a "kalkache bet" (place where bamboo trees and shrubs grow together thickly).

5. The Petitioner was apprehended by the villagers on the next day, i.e. 14.12.1999, before whom he made an extra judicial confession about the murder of victim-2. The same day, he also led the police to the recovery of the bodies of the deceased as well as the discovery of the spot of commission of rape, from where bloodstained earth and plants, half-burnt bidis and broken bangles were recovered. The blood-stained clothes worn by the Petitioner at the time of arrest were also seized. The clothes of the deceased were recovered at his instance on 25.12.1999. The FIR

came to be lodged by Jaysing Dinkar Jadhav, PW10, the brother of the grandfather of the deceased.

6. The Trial Court in Sessions Case No. 142 of 2000 convicted the Petitioner for the offences stated *supra* on the basis of the 'last seen' evidence; motive of the accused; seizure of blood-stained clothes worn by the accused; the Chemical Analysis Report showing that "A" group blood was found on the shirt and pant of the Petitioner as well as in his nail clippings, which was the blood group of both the deceased; recovery of the bodies of the deceased at the instance of the accused; discovery of the spot of commission of rape of the two deceased wherefrom blood-stained earth and other incriminating articles were seized; extra-judicial confession of the Petitioner; recovery of frocks at his instance; and the false explanation given by the Petitioner. The Trial Court found that all these circumstances formed a complete chain pointing to the guilt of the Petitioner.

7. The High Court in Criminal Appeal No. 652 of 2001 and Confirmation Case No.3 of 2001, confirmed the conviction and sentence as awarded by the Trial Court, including the sentence of death, relying upon all the aforementioned circumstances except

for the alleged extra-judicial confession. This Court, in appeal, being Criminal Appeal No. 680 of 2007, confirmed the same, holding that the case at hand falls into the category of the rarest of rare cases warranting punishment with death. Review Petition (Crl.) No. 301 of 2008 filed by the Petitioner against the above Judgment and Order of this Court was dismissed vide order dated 19.11.2008 by the same three-Judge Bench which had rendered the Judgment in appeal, who after considering the matter by way of circulation held that there was no merit in the petition.

8. A criminal miscellaneous petition being Crl. M.P. No. 5584 of 2015 was filed by the Petitioner seeking reopening of this review petition, placing reliance on the decision of this Court dated 02.09.2014 in W.P. (Crl.) No. 77 of 2014 in ***Mohd. Arif @ Ashfaq v. The Registrar, Supreme Court of India,*** **(2014) 9 SCC 737**, which held that in light of Article 21 of the Indian Constitution, review petitions in death sentence cases were required to be heard orally by a three-Judge Bench, and specifically permitted the reopening of review petitions in all cases where review petitions had been dismissed by circulation.

9. In light of the above decision, this Court has heard the review petition filed by the Petitioner orally in the open Court.

10. Learned counsel for the Petitioner, Ms. Nitya Ramakrishnan, did not raise any argument concerning the merits of the case, however raised only the following two arguments:- *firstly*, that the Trial Court had not given the Petitioner a separate hearing while awarding the sentence, in direct contravention of Section 235(2) of the Code of Criminal Procedure (in short, "**CrPC**"), which provides for the right of pre-sentencing hearing as affirmed by this Court in ***Bachan Singh v. State of Punjab***, (1980) 2 SCC 684 and a plethora of other decisions; and *secondly*, that the award of the death sentence to the Petitioner is contrary to the ratio of the three-Judge Bench decision of this Court in ***Shatrughan Chauhan v. Union of India***, (2014) 3 SCC 1, followed in a four-Judge Bench decision of this Court in ***Navneet Kaur v. State (NCT of Delhi)***, (2014) 7 SCC 264, which held that the execution of persons suffering from mental illness or insanity violates Article 21 of the Indian Constitution and that such mental illness or insanity would be a supervening circumstance meriting commutation of the death sentence to life imprisonment.

11. Learned counsel for the Respondent, i.e. the State of Maharashtra, Mr. Nishant Ramakantrao Katneshwarkar, on the other hand, highlighted that the pre-sentencing hearing as envisaged under Section 235(2) of the Cr.P.C need not be conducted on a separate date, and the sentence awarded by the Trial Court does not stand vitiated merely because the sentence with respect to hearing was not conducted on a separate date. To that end, the counsel relied on the three-Judge Bench decision of this Court in ***Vasanta Sampat Dupare v. State of Maharashtra***, (2017) 6 SCC 631. He also submitted that the Petitioner is not suffering from any mental illness so as to warrant commutation of the death sentence, and to that effect submitted certain medical reports.

12. On hearing this petition, this Court was of the opinion that there was no merit in the Petitioner's submissions against the order of conviction, and it was therefore decided that this Court would hear only on the aspects of sentencing pertaining to two issues.

13. The first relates to the implications of non-compliance of Section 235 (2) of CrPC during the sentencing process before the Trial Court. The second issue concerns the mental illness of 'accused

x', which was raised for the first time in this Review Petition, after the judgment of this Court in the earlier round.

14. On the first issue, the learned counsel on behalf of the Petitioner contended that considering the fact that the procedural right of Pre-Sentence Hearing, as envisaged under Section 235 (2) of CrPC, was never provided to the accused, this mandated a fresh hearing before the trial court on the sentencing aspect. In the instant case before us, the principle argument advanced by the counsel for the Petitioner was that, since the order of conviction and the order of sentence in the present case were passed on the same day, no opportunity was awarded to the Petitioner with regard to the sentence imposed upon him. Therefore, the counsel contended that the order of sentence passed in the present case is in violation of Section 235 (2) of the CrPC, which is an illegality vitiating the entire sentence. The counsel vehemently argued that a holistic reading of Section 235 (2) of the CrPC would indicate that the accused should be given ample opportunity to produce materials in his favour so as to place on record the mitigating circumstances which mandate the imposition of lesser penalty.

15. It is pertinent at this point of time to note that countries following the common law tradition, prosecution historically did not play any part in the sentencing process and that it was mostly left for the judge to decide. In India, under the old Code, no opportunity was provided, post-conviction, for the accused to place relevant facts before the court. It was only after the introduction of the present Code in 1973 that such a hearing was provided for in accordance with modern penological practices. At this stage it may be necessary to quote Section 235 of CrPC, which provides for Pre-Sentence Hearing, among other things.

> **235. Judgment of acquittal or conviction.**
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> (2) If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of section 360, hear the accused on the question of sentence, and then pass sentence on him according to law.

Section 235 (2) of CrPC implies that once the judgment of conviction is pronounced, the Court will hear the accused on the question of sentence and at that stage, it is open to the accused to produce such material on record as is available to show the mitigating circumstances in his favor. In other words, the

accused at this stage argues for imposition of lesser sentence based on such mitigating circumstances as brought to the notice of the Court by him.

16. Section 235 (2) of CrPC mandates Pre-Sentence Hearing for the accused and imbibes a cardinal principle that the sentence should be based on 'reliable, comprehensive information relevant to what the Court seeks to do'. In the case at hand, the accused argues that his right to fair trial stands extinguished as he was not provided a separate hearing for sentencing. This issue can be resolved directly by relying on the interpretation of Section 235 (2) of CrPC and this Court's jurisprudence built around Pre-Sentence Hearing.

17. As also highlighted by the Petitioner, this requirement has also been affirmed by the five-Judge Bench of this Court in ***Bachan Singh v. State of Punjab*** (supra), wherein it was also held that at the stage of Pre-Sentence Hearing, the accused can bring on record material or evidence, which may not be strictly relevant to or connected with the particular crime under inquiry, but nevertheless, may have a bearing on the choice of sentence.

18. The first case on this point is ***Santa Singh v. The State of Punjab***, (1976) 4 SCC 190, which was decided by a Division Bench of this Court presided by Justice Bhagwati (as His Lordship then was) and Justice Fazal Ali. This case revolved on the fact that an accused in a double murder case was sentenced to death without providing an opportunity of 'hearing' under Section 235 (2) of CrPC, which was the only ground of appeal before the Supreme Court. This Court, by two concurrent opinions, remanded the matter back to the trial court for fresh consideration on sentencing after giving an opportunity of 'hearing' to the accused. Justice Bhagwati interpreted Section 235 (2) of CrPC in the following manner-

> "This material may be placed before the court by means of affidavits, but if either party disputes the correctness or veracity of the material sought to be produced by the other, an opportunity would have to be given to the party concerned to lead evidence for the purpose of bringing such material on record. **The hearing on the question of sentence, would be rendered devoid of all meaning and content and it would become an idle formality, if it were confined merely to hearing oral submissions without any opportunity being given to the parties** and particularly to the accused, to produce material in regard to various factors bearing on the question of sentence, and if necessary, to lead evidence for the purpose of placing such material before the court.

> ...
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> We are therefore of the view that the hearing contemplated by section 235 (2) is not confined merely to hearing oral submissions, but it is also intended to give an opportunity to the prosecution and the accused to place before the court facts and material relating to various factors bearing on the question of sentence and if they are contested by either side, then to produce evidence for the purpose of establishing the same. **Of course, care would have to be taken by the court to see that this hearing on the question of sentence is not abused and turned into an instrument for unduly protracting the proceedings."**
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> **(emphasis supplied)**

Justice Fazal Ali, agreed with the aforesaid conclusion, and made observations along the same lines.

19. The aforesaid ruling came to be questioned in ***Dagdu and others v. State of Maharashtra***, (1977) 3 SCC 68, wherein a similar question came before this Court. This Court, while repelling the submission of the counsel for the accused therein, who argued that the *ratio* in ***Santa Singh Case*** (supra) mandated compulsory remand of the case to the trial court, held as under-

"But we are unable to read the judgment in Santa Singh (supra) as laying down that the failure on the part of the Court, which convicts an accused, to 'hear him on the question of sentence must necessarily entail a remand to that Court in order to afford to the accused an opportunity to. be heard on the question of sentence. The Court, on convicting an accused, must unquestionably hear him on the question of sentence. But if, for any reason, it omits to do so and the accused makes a grievance of it in the higher court, it would be open to that Court to remedy the breach by giving a hearing to the accused on the question of sentence. That opportunity has to be real and effective, which means that the accused must be permitted to adduce before the Court all the data which he desires to adduce on the question of sentence. The accused may exercise that right either by instructing his counsel to make oral submissions to the Court or he may, on affidavit or otherwise, place in writing before the Court whatever he desires to place before it on the question of sentence. **The Court may, in appropriate cases, have to adjourn the matter in order to give to the accused sufficient time to produce the necessary data and to make his contentions on the question of sentence.** That, perhaps, must inevitably happen where the conviction is recorded for the first time by a higher court.

Bhagwati J. has observed in his judgment that care ought to be taken to ensure that the opportunity of a hearing on the question of sentence is not abused and turned into an instrument for unduly protracting the proceedings."

(emphasis supplied)

20. In ***Rajendra Prasad v. State of Uttar Pradesh,*** AIR 1979 SC 916, the Supreme Court expressed its concern that the mandatory Pre-Sentence Hearing had become nothing more than a repetition of the facts of the case. The Bench hoped that "*the Bar will assist the Bench in fully using the resources of the new provision to ensure socio-personal justice, instead of ritualising the submissions on sentencing by reference only to materials brought on record for proof or disproof of guilt*".

21. In the case of ***Muniappan v. State of Tamil Nadu***, (1981) 3 SCC 11, the Supreme Court noted that the trial court had sentenced the accused to death stating that when the accused was asked to speak on the question of sentence, he did not say anything. In such a case the Supreme Court noted that the requirement of Section 235(2) was not discharged by merely putting a formal question to the accused, and the court should undertake genuine efforts. The Court observed therein that, "*it is the bounden duty of the judge to cast aside the formalities of the court scene and approach the question of sentence from a broad, sociological point of view*".

22. The question of providing sufficient time for Pre-Sentence Hearing was dealt with by the Court in ***Allauddin Mian v. State of Bihar***, (1989) 3 SCC 5. The Supreme Court observed that the trial court had not provided sufficient time to the accused for hearing on sentencing. Relevant factors, such as, the antecedents of the accused, their socio-economic conditions, and the impact of their crime on the community had not come on record, and in the absence of such information deciding on punishment was difficult. The Supreme Court therefore recommended that, "*as a general rule the trial courts should after recording the conviction adjourn the matter to a future date and call upon both the prosecution as well as the defence to place the relevant material bearing on the question of sentence before it and thereafter pronounce the sentence to be imposed on the offender*". The aforesaid proposition was also reiterated in ***Malkiat Singh v. State of Punjab***, (1991) 4 SCC 341.

23. On the other hand, in ***Sevaka Perumal v. State of Tamil Nadu***, AIR 1991 SC 1463, this Court upheld the death sentence even though it was argued that no time had been given to raise grounds on sentencing by the trial court. This Court observed

that, during the appeal, the defence counsel had been unable to provide any additional grounds on sentence and therefore no prejudice had been caused to the accused.

24. In ***State of Maharashtra v. Sukhdev Singh***, (1992) 3 SCC 700, the Supreme Court clarified that while Section 309 of the CrPC prescribed no power for adjournment of sentencing hearings, these should be provided where the accused sought to produce materials in capital cases. In ***Jai Kumar v. State of Madhya Pradesh***, AIR 1999 SC 1860, this Court observed that the trial court had given an opportunity to the defence to produce materials, which they chose not to do, and had considered the mitigating circumstances raised by them. This Court opined that, in such circumstances, it was not a miscarriage of justice that the judge did not adjourn the hearing.

25. In ***Anshad v. State of Karnataka***, (1994) 4 SCC 381, this Court disapprovingly noted that the trial judge had dealt with sentencing cryptically in one paragraph and this defeated the very object of Section 235(2) of CrPC, exposing a "*lack of sensitiveness on his part while dealing with the question of sentence*". Commuting the sentences of the appellants, the

Supreme Court observed that both the lower courts did not appreciate the aggravating and mitigating circumstances and therefore their entire approach to sentencing was incorrect.

26. The aforesaid principle was further elucidated in the case of ***B.A. Umesh v. Registrar General, High Court of Karnataka***, (2017) 4 SCC 124, wherein it was held that a review petition cannot be allowed merely because no separate date was given for hearing on the sentence. This Court held that Section 235(2) of CrPC does not mandate separate date for the hearing of the sentence, rather, it is dependent on the facts and circumstances of the case, for instance, if parties insist to be heard on separate dates.

27. As per the order dated 03.02.2017 in ***Mukesh v. State (NCT of Delhi)***, (2017) 3 SCC 717, this Court, having found that there was no compliance of Section 235 (2) of CrPC by the court's below, observed as under-

> **"Having considered all the authorities, we find that there are two modes, one is to remand the matter or to direct the accused persons to produce necessary data and advance the contention on the question of sentence. Regard being had to the nature of the case, we think it appropriate to adopt the second mode.** To elaborate, we would like to give opportunity

> before conclusion of the hearing to the accused persons to file affidavits along with documents stating about the mitigating circumstances. Needless to say, for the said purpose, it is necessary that the learned Counsel, Mr. M.L. Sharma and his associate Ms. Suman and Mr. A.P. Singh and his associate Mr. V.P. Singh should be allowed to visit the jail and communicate with the accused persons and file the requisite affidavits and materials."
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> **(emphasis supplied)**

28. In the final order of ***Mukesh v. State (NCT of Delhi)***, (2017) 6 SCC 1, this Court held that in the event the procedural requirements under Section 235 (2) of the CrPC are not met, the appellate court can either remit the case back to the trial court or adjourn the matter before the appellate forum for hearing on sentence after giving an opportunity to adduce evidence. On the other hand, the court also noted that any deficiency in non-compliance of Section 235 (2) of CrPC can be cured by providing the opportunity at the appellate stage itself so as to curtail the delay in the proceedings. In that case, this Court had allowed the accused to file an affidavit listing the mitigating circumstance, noticing that no pre-hearing on sentence was ever carried out.

29. Two recent three-Judge Bench decisions of this Court on this aspect merit our consideration. Firstly, in the decision dated 28.11.2018 in ***Chhannu Lal Verma v. State of Chhattisgarh*** (Criminal Appeal Nos. 1482-1483 of 2018), this Court observed that not having a separate hearing at the stage of trial was a procedural impropriety. Noting that a bifurcated hearing for conviction and sentencing was a necessary condition laid down in ***Santosh Kumar Satishbhushan Bariyar,*** (2009) 6 SCC 498, the Court held that by conducting the hearing for sentencing on the same day, the Trial Court failed to provide necessary time to the appellant therein to furnish evidence relevant to sentencing and mitigation. We find that this cannot be taken to mean that this Court intended to lay down, as a proposition of law, that hearing the accused for sentencing on the same day as for conviction would vitiate the trial. On the contrary, in the said case, it was found on facts that the same was a procedural impropriety because the accused was not given sufficient time to furnish evidence relevant to sentencing and mitigation.

30. Secondly, in the decision dated 12.12.2018 in ***Rajendra Prahladrao Wasnik v. State of Maharashtra,*** (Review Petition

(Crl.) Nos. 306-307 of 2013), this Court made a general observation that in cases where the death penalty may be awarded, the Trial Court should give an opportunity to the accused after conviction which is adequate for the production of relevant material on the question of the propriety of the death sentence. This is evidently at best directory in nature and cannot be taken to mean that a pre-sentence hearing on a separate date is mandatory.

31. It may also be noted that in the older three-Judge Bench decision of this Court in ***Malkiat Singh Case*** (supra), the Court observed that keeping in mind the two-Judge Bench decisions in ***Allauddin Mian Case*** (supra) and ***Anguswamy v. State of Tamil Nadu***, (1989) 3 SCC 33, wherein it had been laid down that a sentence awarded on the same day as the finding of guilt is not in accordance with law, the normal course of action in case of violation of such procedure would be remand for further evidence. However, on a perusal of these two decisions we find that their import has not been correctly appreciated in ***Malkiat Singh Case*** (supra), since the observations in ***Allauddin Mian Case*** (supra), as relied upon in ***Anguswamy Case*** (supra),

regarding conduct of hearings on separate dates, were only directory. Be that as it may, it must be noted that the effect of ***Malkiat Singh Case*** (supra) has already been considered by this Court in ***Vasanta Sampat Dupare Case*** (supra), wherein it was already noted that the mere non-conduct of the pre-sentence hearing on a separate date would not per se vitiate the trial if the accused has been afforded sufficient time to place relevant material on record.

32. It may not be out of context to note that in case the minimum sentence is proposed to be imposed upon the accused, the question of providing an opportunity under Section 235(2) would not arise. (See ***Tarlok Singh v. State of Punjab***, (1977) 3 SCC 218; ***Ramdeo Chauhan v. State of Assam***, (2001) 5 SCC 714).

33. There cannot be any doubt that at the stage of hearing on sentence, generally, the accused argues based on the mitigating circumstances in his favour for imposition of lesser sentence. On the other hand, the State/the complainant would argue based on the aggravating circumstances against the accused to support the contention relating to imposition of higher sentence. The object of Section 235 (2) of the Cr.P.C is to provide an

opportunity for accused to adduce mitigating circumstances. This does not mean, however, that the Trial Court can fulfil the requirements of Section 235(2) of the Cr.P.C. only by adjourning the matter for one or two days to hear the parties on sentence. If the accused is ready to submit his arguments on this aspect on the very day of pronouncement of the judgment of conviction, it is open for the Trial Court to hear the parties on sentence on the same day after passing the judgment of conviction. In a given case, based on facts and circumstances, the Trial Court may choose to hear the parties on the next day or after two days as well.

34. In light of the above discussion, we are of the opinion that as long as the spirit and purpose of Section 235(2) is met, inasmuch as the accused is afforded a real and effective opportunity to plead his case with respect to sentencing, whether simply by way of oral submissions or by also bringing pertinent material on record, there is no bar on the pre-sentencing hearing taking place on the same day as the pre-conviction hearing. Depending on the facts and circumstances, a separate date may be required for

hearing on sentence, but it is equally permissible to argue on the question of sentence on the same day if the parties wish to do so.

35. Now we need to consider the impact of non-compliance of procedure provided under Section 235 (2) of CrPC by the trial court. Even assuming that a procedural irregularity is committed by the trial court to a certain extent on the question of hearing on sentence, the violation can be remedied by the appellate Court by providing sufficient opportunity of being heard on sentence. It must be kept in mind that Section 465 of the CrPC mandates that no finding, sentence or order passed by the Court of competent jurisdiction shall be reversed or altered by the Court of appeal on account of any error, omission or irregularity in the order, judgment and other proceedings before or during trial unless such error, omission or irregularity results in a failure of justice. Such non-compliance can be remedied by the appellate Court by either remanding the matter in appropriate cases or by itself giving an effective opportunity to the accused.

36. The narrative provided by numerous cases on this aspect portrays a picture of the appellate Court trying to balance two important rights, *viz.*, right to fair trial and right to speedy trial.

On one side, is the procedural right granted to the accused under Section 235 (2) of CrPC, and on the other side is the possibility of misuse to delay the trial. The experienced judges in India have enough expertise to distinguish, between the schemes for protracting trials from that of genuine causes in order to protect rights of the accused.

37. This brings us to the role of appellate courts under our Criminal Justice System. There is no dispute that under our chosen system, that the highest discretion is provided to trial courts. Sometimes appellate courts, in order to preserve the competing factors in play, provides discretion for the trial court to operate. However, appellate court must adopt a 'cautionary approach' when providing such indulgence, which must be restricted and balanced against competing interests.[1] The narration of various court *dicta*, which are cited above, provide for a cautionary tale right from ***Santa Singh Case*** onwards, as the choice of solution for remedying non-compliance of Section 235 (2) of CrPC provides for selection of at least two different modes.

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1 Dame Sian Elias, Fairness in Criminal Justice (golden threads and pragmatic patches), Hamlyn Lectures (2018)

38. As noted above, many cases have grappled with the question as to the choice between the two. The approach of this Court needs to be rationalized and understood in the light of cautionary approach discussed above. From the aforesaid discussion, following *dicta* emerge-

i. That the term 'hearing' occurring under Section 235 (2) requires the accused and prosecution at their option, to be given a meaningful opportunity.

ii. Meaningful hearing under Section 235 (2) of CrPC, in the usual course, is not conditional upon time or number of days granted for the same. It is to be measured qualitatively and not quantitatively.

iii. The trial court need to comply with the mandate of Section 235 (2) of CrPC with best efforts.

iv. Non-compliance can be rectified at the appellate stage as well, by providing meaningful opportunity.

v. If such an opportunity is not provided by the trial court, the appellate court needs to balance various considerations and either afford an opportunity before itself or remand back to trial court, in appropriate case, for fresh consideration.

vi. However, the accused need to satisfy the appellate courts, *inter alia* by pleading on the grounds as to existence of mitigating circumstances, for its further consideration.

vii. Being aware of certain harsh realities such as long protracted delays or jail appeals through legal aid etc., wherein the appellate court, in appropriate cases, may take recourse of independent enquiries on relevant facts ordered by the court itself.

viii. If no such grounds are brought by the accused before the appellate courts, then it is not obligated to take recourse under Section 235 (2) of CrPC.

39. Having discussed the law on pre-sentence hearing, it would be appropriate at this juncture to revisit the decisions of the Courts, leading to this review in order to ascertain whether the Petitioner was given an effective opportunity to place material on record relevant to the quantum of sentence, in this instant case.

40. The Trial Court heard the Petitioner on the aspect of imposition of sentence separately, which is amply clear from paragraphs 79-87 of the judgment of the Trial Court. Hence, based on the material on record we are satisfied that the Trial Court has fully complied with the requirement of Section 235(2) of the CrPC, While coming to its conclusion, the Court held that the aggravating circumstances of the crime, i.e. the magnitude and manner of commission of the crime in the form of the kidnapping, rape and murder of two minor girls, outweighed the mitigating circumstances of the accused, i.e. the dependency of his aged mother on him, and his young age. The Court also gave weightage to the prior convictions of the accused for the same kind of offence, i.e. for the offence of rape of a nine-year-old girl child under Sections 376 and 506 of the IPC and Section 57 of

the Bombay Children Act, as well as for the kidnapping and rape of a seven-year-old girl child under Sections 363 and 366 of the IPC. It may be noted here itself that in light of his two prior convictions, the Trial Court also gave him an opportunity to be heard on the question of Section 75 of the IPC, which pertains to enhance punishment for certain offences under Chapter XII or XVII of the IPC after previous conviction, but the factum of these convictions was also not contested by the Petitioner.

41. Before the High Court as well, further material was brought on record by the Petitioner regarding his discharge in one case related to offences of the same nature, which the Court found to not be in the nature of a mitigating circumstance. The High Court was of the opinion that the dependency of aged parents could also not be considered as a mitigating circumstance to begin with, and that the accused was not young enough for his age to be considered as a mitigating circumstance. The High Court noted the absence of any extreme mental or emotional disturbance leading to the commission of the offence, and observed that given the past offending history of the accused, there was no hope of his reform or rehabilitation. The Court also

noted the barbaric nature of the offence, inasmuch as the Petitioner had cold-bloodedly raped and murdered two innocent and defenceless girls by abusing the faith that they had reposed in him as their neighbour, and concluded that he would pose a threat to society even if released for the smallest period of time, and might commit similar acts in the future. On this basis, the High Court affirmed the death penalty awarded to the accused.

42. The Supreme Court, in appeal, being Criminal Appeal No. 680 of 2007, also determined the case to fall into the category of the rarest of rare cases.

43. The record in the instant matter therefore clearly shows that the accused was accorded a real and effective opportunity at the trial stage itself. It may further be stated that the opportunity granted to the Petitioner by the High Court to adduce further material on this aspect was above and beyond the requirement of Section 235(2). The Courts had taken all the attendant circumstances into account before reaching the conclusion of awarding the death penalty. It is also not the case that the accused made a request for hearing on sentencing on a separate date and the same was refused. In such circumstances, we reject the

contention that the procedure envisaged in Section 235(2) of the CrPC was not complied with in the present case.

44. Now we need to consider the second issue concerning post-conviction mental illness as a mitigating factor for converting a death sentence to life imprisonment.

45. It is pertinent for us to understand the phenomenon of post-conviction mental illness. As the phrase itself suggests, it is only after being proven guilty, that the convict has developed such illness. It is well acknowledged fact throughout the world that, prisons are difficult places to be in. The World Health Organisation and the International Red Cross, identify multiple circumstances such as overcrowding, various forms of violence, enforced solitude, lack of privacy, inadequate health care facilities, concerns about family etc, can take a toll on the mental health of the prisoners. Due to the prevailing lack of awareness about such issues, the prisoners have no recourse and their mental health keeps on degrading day by day. The prevailing argument in favour of such prisoners is that; whether the

imposition of death penalty upon such prisoners is justified, who have clearly impaired their abilities to even understand the nature and purpose of such punishment and the reasons for such imposition? The aforesaid issues will be dealt at length at the later stage.

46. The accused has now pleaded an entirely new ground of post-conviction mental illness for the first time herein, which obliges us to go into the aspect of sentencing afresh. It is also brought to our notice that the appellant has been a death row convict for almost 17 years, mandating us to resolve the issue of sentencing herein. Before we consider the appropriate punishment for the accused herein, a reference needs to be made to the background principles concerning sentencing policy considering that the present Petitioner is pleading a mitigating factor which has arisen post-conviction.

47. Sentencing is appropriate allocation of criminal sanctions, which is mostly given by the judicial branch.[2] This process occurring at the end of a trial still has a large impact on the efficacy of a Criminal Justice System. It is established that sentencing is a

2 Nicola Padfield, Rod Morgan and Mike Maguire, 'Out of Court, out of sight? Criminal sanctions and no-judicial decision making', The Oxford Handbook of Criminology (5th Ed.).

socio-legal process, wherein a judge finds an appropriate punishment for the accused considering factual circumstances and equities. In light of the fact that the legislature provided for discretion to the judges to give punishment, it becomes important to exercise the same in a principled manner. We need to appreciate that a strict fixed punishment approach in sentencing cannot be acceptable, as the judge needs to have sufficient discretion as well.

48. Before analyzing this case, we need to address the issue of the impact of reasoning in the sentencing process. The reasoning of the trial court acts as a link between the general level of sentence for the offence committed and to the facts and circumstances. The trial court is obligated to give reasons for the imposition of sentence, as firstly, it is a fundamental principle of natural justice that the adjudicators must provide reasons for reaching the decision and secondly, the reasons assume more importance as the liberty of the accused is subject to the aforesaid reasoning. Further, the appellate court is better enabled to assess the correctness of the quantum of punishment challenged, if the trial court has justified the same with reasons. The aforesaid principle

is fortified not only by the statute under Section 235 (2) of CrPC but also by judicial interpretation. Any increase or decrease in the quantum of punishment than the usual levels need to be reasoned by the trial court. However, any reasoning dependent on moral and personal opinion/notion of a Judge about an offence needs to be avoided at all costs.

49. Sentencing in India, is a midway between judicial intuition and strict application of rule of law. As much as we value the rule of law, the process of sentencing needs to preserve principled discretion for a judge. In India, sentencing is mostly led by 'guideline judgments' in the death penalty context, while many other countries like United Kingdom and United States of America, provide a basic framework in sentencing guidelines.

50. Although at the outset, it is clarified that this Court may not laydown a 'definitive sentencing policy', which is rather a legislative function, however, the Courts in India have addressed this problem in a principled manner having regards to judicial standards and principles. These judicially set-principles not only serve as instructive guidelines, but also preserve the required discretion of the trial judges while sentencing. Such an effort has

already been initiated by the Supreme Court, in ***Sunil Dutt Sharma Case***, (2014) 4 SCC 375, when the sentencing guidelines evolved in the context of death penalty were applied to a lesser sentence as well. However, achieving sentencing uniformity may not only require judicial efforts, but even the legislature may be required to step in.

51. Moreover, our attention is also drawn to the Malimath Committee Report on Reforms in the Criminal Justice System, which recommended creation of a statutory body for prescribing sentencing guidelines. Before concluding the aforementioned observations highlighting the dangers of sentencing discretion, we are reminded of the words of Justice Krishna Iyer, who held that "*Guided missiles with lethal potential, in unguided hands, even judicial, is a grave risk where the peril is mortal though tempered by the appellate process.*" [*refer* ***Rajendra Prasad v. State of Uttar Pradesh*** (1979) 3 SCC 646]

52. In any case, considering that a large part of the exercise of sentencing discretion is principled, a Judge in India needs to keep in mind broad purposes of punishment, which are

deterrence, incapacitation, rehabilitation, retribution and reparation (wherever applicable), unless particularly specified by the legislature as to the choice. The purposes identified above, marks a shift in law from crime-oriented sentencing to a holistic approach wherein the crime, criminal and victim have to be taken into consideration collectively.

53. Having observed some of the general aspects of sentencing, it is necessary to consider the aspect of post-conviction mental illness as mitigating factor in the analysis of 'rarest of the rare' doctrine which has come into force post ***Bachan Singh Case*** (supra).

54. As a starting point we need to refer to ***Piare Dusadh v. King Emperor,*** AIR 1944 FC 1, has already recognized post-conviction mental illness as a mitigating factor in the following manner-

> Case No. 47-The appellant in this case was convicted by a Special Judge of the offence of murder and was sentenced to death on 30th September 1942. His appeal to the Allahabad High Court was dismissed and the sentence of death was confirmed. The appellant is a young man of 25 who has been twice widowed. His victim was his aunt, 30 years of age, whose husband (Kanchan) had about six years previously murdered his own brother, appellant's father. Kanchan was sentenced to death for the

murder, but lost his reason while awaiting the execution of the death sentence, and is now detained as a lunatic. The evidence in this case leaves no room for doubt that the appellant was rightly convicted of murder. There is some confusion as to the exact motive for the undoubtedly brutal assault of which the appellant made his aunt the victim. The prosecution alleged that the appellant being a widower was chagrined by the refusal of his aunt to become his mistress. In his statement before, the Special Judge he said that another uncle (P.W. 7) who according to the appellant was behind the prosecution was on terms of improper intimacy with the deceased and resented even small acts of kindness on the part of the deceased towards the appellant. In the appeal preferred by him through the jail authorities to the High Court, the appellant stated that his aunt was a woman of loose character and was pursuing him with unwelcome attentions. The previous history of this family indicates that the appellant probably suffers from an unbalanced mind. The nature and ferocity of the assault upon his aunt appear to confirm this.

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 his 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.

> **We accordingly reduce the sentence of death to one of transportation for life and subject to this modification dismiss the appeal**.
>
> (**emphasis supplied**)

However, this case does not provide any guidelines or the threshold for evaluating what kind of mental illness needs to be taken into consideration by the Courts.

55. We note that, usually, mitigating factors are associated with the criminal and aggravating factors are relatable to commission of the crime. These mitigating factors include considerations such as the accused's age, socio-economic condition *etc*. We note that the ground claimed by 'accused x' is arising after a long-time gap after crime and conviction. Therefore, the justification to include the same as a mitigating factor does not tie in with the equities of the case, rather the normative justification is founded in the Constitution as well as the jurisprudence of the 'rarest of the rare' doctrine. It is now settled that the death penalty can only be imposed in the rarest of the rare case which requires a consideration of the totality of circumstances. In this light, we have to assess the inclusion of post-conviction mental illness as a determining factor to disqualify as a 'rarest of the rare' case.

56. Sentencing generally involves curtailment of liberty and freedom for the accused. Under Article 21 of the Constitution, right to life and liberty cannot be impaired unless taken by *jus* laws. In this case we are concerned with the death penalty, which inevitably affects right to life, and is subjected to a various substantive and procedural protections under our criminal justice system. An irreducible core of right to life is 'dignity'. [*refer* ***Navtej Singh Johar v. Union of India***, AIR 2018 SC 4321]. Right to human dignity comes in different shades and colours. [*refer* ***Common Cause v. Union of India***, AIR 2018 SC 1665]. For our purposes, the dignity of human being inheres a capacity for understanding, rational choice, and free will inherent in human nature, etc. The right to dignity of an accused does not dry out with the judges' ink, rather, it subsists well beyond the prison gates and operates until his last breath. In the context of mentally ill prisoners it is pertinent to mention that Section 20 (1) of the Mental Health Care Act, 2017, Act No. 10 of 2017, explicitly provides that '*every person with mental illness shall have a right to live with dignity*'.

57. All human beings possess the capacities inherent in their nature even though, because of infancy, disability, or senility, they may

not yet, not now, or no longer have the ability to exercise them. When such disability occurs, a person may not be in a position to understand the implications of his actions and the consequence it entails. In this situation, the execution of such a person would lower the majesty of law.

58. Article 20 (1) of the Indian Constitution imbibes the idea communication/knowledge for the accused about the crime and its punishment. It is this communicative element, which is ingrained in the sentence (death penalty), that gives meaning to the punishments in a criminal proceeding. The notion of death penalty and the sufferance it brings along, causes incapacitation and is idealized to invoke a sense of deterrence. If the accused is not able to understand the impact and purpose of his execution, because of his disability, then the *raison d'être* for the execution itself collapses.

59. It may not be out of context to refer ***Atkins v. Virginia***, 536 U.S. 304 (2002), wherein the United States Supreme Court, while dealing with the question 'whether the execution of mentally retarded persons "cruel and unusual punishment" prohibited by the Eighth Amendment?' The Court noted that hanging mentally

disabled or retarded neither increases the deterrence effect of death penalty nor does the non-execution of the mentally disabled will measurably impede the goal of deterrence.

60. Moreover, Article 20 of the Constitution guarantees individuals the right not to be subjected to excessive criminal penalty. The right flows from the basic tenet of proportionality. By protecting even those convicted of heinous crimes, this right reaffirm the duty to respect the dignity of all persons. Therefore, our Constitution embodies broad and idealistic concepts of dignity, civilized standards, humanity, and decency against which penal measures have to be evaluated. In recognizing these civilized standards, we may refer to the aspirations of India in being a signatory to the Convention on Rights of Persons with Disabilities, which endorse 'prohibition of cruel, inhuman or degrading punishments' with respect to disabled persons. Additionally, when the death penalty existed in England, there was a common law right barring execution of lunatic prisoners.[3]

3 Hale's Pleas of the Crown Vol. I - p. 33; Coke's Institutes, Vol. III, pg. 6; Black-stone's Commentaries on the Laws of England Vol. IV, pages 18 and 19; , "An Introduction to Criminal Law", by Rupert Cross, (1959), p. 67.

Additionally, there is a strong international consensus against the execution of individuals with mental illness.[4]

61. We may note that various prison rules in India also recognizes that generally the Government has the duty to pass appropriate orders on execution, if a person is found to be lunatic. Andhra Pradesh Prison Rules, 1979, Rule 796; Gujarat Prisons (Lunatics) Rules, 1983; Delhi Prison Rules, 2018, Rule 824; Tamil Nadu Prison Rules, 1983, Rule 923; Maharashtra Prison Manual, 1979, Chapter XLII (Government Notification, Home department, No. RJM-1058 (XLVI)/12,495-XVI, dated 18.01.1971); Model Prison Manual by Ministry of Home Affairs (2016), Rule 12.36 are some of the examples of legal instruments in India which have already recognized post-conviction mental illness as a relevant factor for Government to consider under its clemency jurisdiction.

62. Having understood the normative basis for recognition of post-conviction mental illness as a mitigating factor in a death penalty case, we must mention that ***Shatrughan Chauhan Case*** (supra) had identified the same and holds as under:

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4 *Commission on Human Rights Resolution 2000/65 The question of the death penalty*, UN Commission on Human Rights (Apr. 27, 2000); G.A. Res. 69/186, ¶ 5(d) (Feb. 4, 2015);

> "86. The above materials, particularly, the directions of the United Nations international conventions, of which India is a party, clearly show that insanity/mental illness/schizophrenia is a crucial supervening circumstance, which should be considered by this Court in deciding whether in the facts and circumstances of the case death sentence could be commuted to life imprisonment. To put it clear, "insanity" is a relevant supervening factor for consideration by this Court."

63. Now we need to consider the test for recognizing an accused eligible for such mitigating factor. It must be recognized that insanity recognized under IPC and the mental illness we are considering in the present case arise at a different stage and time. Under IPC, Section 84 recognizes the plea of legal insanity as a defence against criminal prosecution. [*refer* ***Surendra Mishra v. State of Jharkhand***, (2011) 3 SCC (Cri.) 232]. This defence is restricted in its application and is made relatable to the moment when the crime is committed. Therefore, Section 84 of IPC relates to the *mens rea* at the time of commission of the crime, whereas the plea of post-conviction mental illness is based on appreciation of punishment and right to dignity. [*refer* ***Amrit Bhushan Gupta v. Union of India***, AIR 1977 SC 608] The

different normative standards underpinning the above consequently mean different threshold standards as well.

64. On the other hand, considering the fact that the case is at the fag end of the process and the mitigating factors so discussed above were not emergent at the time of commission of the crime, therefore this ground needs to be utilized only in extreme cases of mental illness considering the element of marginal retribution which survives. In any case, considering that India has taken an obligation at an international forum to not punish mental patients with cruel and unusual punishments, it would be necessary for this Court to provide for a test wherein only extreme cases of convicts being mentally ill are not executed. Moreover, this Court cautions against utilization of this *dicta* as a ruse to escape the gallows by pleading such defense even if such aliment is not of grave severity.

65. Before we analyse this case at hand, a brief survey of classification of mental illness and its impact on death penalty needs to be considered. The *Diagnostic and Statistical Manual of Mental Disorders* (DSM), is one of the most well-known classification and diagnostic guides for mental disorders in

America. Its fifth edition (DSM-5), published in 2013, defines mental disorder as follows: -

> **A mental disorder is a syndrome characterized by clinically significant disturbance in an individual's cognition, emotion regulation, or behaviour that reflects a dysfunction in the psychological, biological, or developmental processes underlying mental functioning. Mental disorders are usually associated with significant distress in social, occupational, or other important activities.** An expectable or culturally approved response to a common stressor or loss, such as the death of a loved one, is not a mental disorder. Socially deviant behavior (e.g., political, religious, or sexual) and conflicts that are primarily between the individual and society are not mental disorders unless the deviance or conflict results from a dysfunction in the individual, as described above.

66. 'Severe Mental Illness' under the 'International Classification of Diseases (ICD)', which is accepted under Section 3 of the Mental Health Care Act, 2017, generally include-

1. schizophrenic and delusional disorders
2. mood (affective) disorders, including depressive, manic and bipolar forms
3. neuroses, including phobic, panic and obsessive–compulsive disorders

4. behavioural disorders, including eating, sleep and stress disorders

5. personality disorders of different kinds.

67. American Bar Association, by its Resolution 122A passed on August 2006, notes as under-

> (a) Grounds for Precluding Execution. A sentence of death should not be carried out if the prisoner has a mental disorder or disability that significantly impairs his or her capacity (i) to make a rational decision to forgo or terminate post-conviction proceedings available to challenge the validity of the conviction or sentence; (ii) to understand or communicate pertinent information, or otherwise assist counsel, in relation to specific claims bearing on the validity of the conviction or sentence that cannot be fairly resolved without the prisoner's participation; or (iii) to understand the nature and purpose of the punishment, or to appreciate the reason for its imposition in the prisoner's own case.

68. In line with the above discussion, we note that there appear to be no set disorders/disabilities for evaluating the 'severe mental illness', however a 'test of severity' can be a guiding factor for recognizing those mental illness which qualify for an exemption. Therefore, the test envisaged herein predicates that the offender

needs to have a severe mental illness or disability, which simply means that a medical professional would objectively consider the illness to be most serious so that he cannot understand or comprehend the nature and purpose behind the imposition of such punishment. These disorders generally include schizophrenia, other serious psychotic disorders, and dissociative disorders-with schizophrenia.

69. Following directions need to be followed in the future cases in light of the above discussion-

a. That the post-conviction severe mental illness will be a mitigating factor that the appellate Court, in appropriate cases, needs to consider while sentencing an accused to death penalty.

b. The assessment of such disability should be conducted by a multi-disciplinary team of qualified professionals (experienced medical practitioners, criminologists etc), including professional with expertise in accused's particular mental illness.

c. The burden is on the accused to prove by a preponderance of clear evidence that he is suffering with severe mental illness. The accused has to demonstrate active, residual or prodromal symptoms, that the severe mental disability was manifesting.

d. The State may offer evidence to rebut such claim.

e. Court in appropriate cases could setup a panel to submit an expert report.

f. 'Test of severity' envisaged herein predicates that the offender needs to have a severe mental illness or disability, which simply means that objectively the illness needs to be most serious that the accused cannot understand or comprehend the nature and purpose behind the imposition of such punishment.

70. Having said so, it needs to be considered that the accused has submitted a report of the Class-I Psychiatrist, Yerawada Central Prison, indicating that he was suffering from some sort of mental illness without providing any objective factors for such assessment. We may reproduce the aforesaid report dated 25.09.2014, in the following manner-

> Clinical impression:- no delusions, no hallucinations, sleep and appetite are normal.
>
> Remark:-Taking regular medication and maintaining improvement. He is under OPD under Psychiatric treatment since 21.12.1994 and since then taking regular treatment. Currently he is on anti-psychotic drugs…
>
> The doctor further opined that 'he is maintaining good improvement on medication, good diet. He is having psychological disturbance and symptoms like irritability emerges when the dosage is decreased.

71. Moreover, the expert opinion offered by a Psychiatrist registered with the Maharashtra Medical Council working as a coordinator of the Centre for Mental Health Law and Policy, Indian Law

Society, Pune, does not provide any further clarity. We may extract the conclusion reached by the aforesaid report as well-

> **While no definite opinion can be given relating to the mental health condition of Accused 'X'** and the treatment being administered to him, considering that he appears to be under treatment for a severe mental illness such as schizophrenia or some type of psychosis, **there appears to be a need to review Accused x's medical records and to clinically examine him to assess his current psychiatric status.**
>
> **(emphasis supplied)**.

72. Even though we are not satisfied with such statements made by the doctors as the assessment seems to be incomplete. However, it is to be noted that the present accused has been reeling under bouts of some form of mental irritability since 1994, as apparent from the records placed before us. Moreover, he has suffered long incarceration as well as a death row convict. In the totality of circumstances, we do not consider it be appropriate to constitute a panel for re-assessment of his mental condition, in the facts and circumstances of this case.

73. At the same time, we cannot lose sight of the fact that a sentence of life imprisonment *simpliciter* would be grossly inadequate in the instant case. Given the barbaric and brutal manner of

commission of the crime, the gravity of the offence itself, the abuse of the victims' trust by the Petitioner, and his tendency to commit such offences as is evident from his past conduct, it is extremely clear that the Petitioner poses such a grave threat to society that he cannot be allowed to roam free at any point whatsoever. In this view of the matter, we deem it fit to direct that the Petitioner shall remain in prison for the remainder of his life. It need not be stated that this Court has in a plethora of decisions held such an approach to be perfectly within its power to adopt, and that it acts as a useful *via media* between the imposition of the death penalty and life imprisonment *simpliciter* (which usually works out to 14 years in prison upon remission). (See for instance ***Swamy Shraddananda (2) v. State of Karnataka***, (2008) 13 SCC 767; ***Union of India v. V. Sriharan***, (2016) 7 SCC 1; ***Tattu Lodhi v. State of Madhya Pradesh***, (2016) 9 SCC 675).

74. In light of the above discussion, the petition is allowed to the extent that the sentence of death awarded to the Petitioner is commuted to imprisonment for the remainder of his life *sans* any right to remission.

75. Further, it is this state of 'accused x' that obliges the State to act as *parens patriae*. In this state 'accused x' cannot be ignored and left to rot away, rather, he requires care and treatment. Generally, it needs to be understood that prisoners tend to have increased affinity to mental illness.[5] Moreover, due to legal constraints on the recognition of broad-spectrum mental illness within the Criminal Justice System, prisons inevitably become home for a greater number of mentally-ill prisoners of various degrees. There is no overlooking of the fact that the realities within the prison walls may well compound and complicate these problems.[6]

76. In order to address the same, the Mental Healthcare Act, 2017 was brought into force. The aspiration of the Act was to provide mental health care facility for those who are in need including prisoners. The State Governments are obliged under Section 103 of the Act to setup a mental health establishment in the medical wing of at least one prison in each State and Union Territory, and prisoners with mental illness may ordinarily be referred to and cared for in the said mental health establishment.

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5 Although statistics on the same are not available for all of Indian prisons, but we were able to compare sample studies within some Indian prisons and literature on psychiatric morbidity concurs as well.

6 Liebling, Maruna and McAra *et al.*, The Oxford Handbook of Criminology (6th Ed. (2017)).

77. Therefore, we direct the State Government to consider the case of 'accused x' under the appropriate provisions of the Mental Healthcare Act, 2017 and if found entitled, provide for his rights under that enactment.

78. In light of the above discussion, this review petition stands partly allowed in the aforesaid terms and pending applications, if any, shall also stand disposed of.

.....**J.**
[**N.V. Ramana**]

.....**J.**
[**Mohan M. Shantanagoudar**]

.....
.....**J.**
[**Indira Banerjee**]

NEW DELHI;
APRIL 12, 2019