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(1987) 03 SC CK 0013

In the Supreme Court Of India

Case No : Criminal A. No''s. 285 and 286 of 1986

Mahesh and Others APPELLANT

Vs

State of M.P. RESPONDENT

Date of Decision : 27-03-1987

Acts Referred:
Penal Code, 1860 (IPC) — Section 302

Citation : (1987) JLJ 558

Hon'ble Judges : V. Khalid, J;G.L. Oza, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

V. Khalid, J.—The Appellants Ram Narain and his son Mahesh have been convicted u/s 302 IPC and sentenced to death. They are the residents of Village Hinota. They are alleged to have committed five murders on June 21, 1984 at about 6.30 p. m. The deceased are Pcoran Baraua, his wife, Narbad Bai, his mother, Mula Bai, his daughter Kumari Nanhi Bai and his neighbour Gulab. The Learned Counsel for the Appellants tried to lake us through the evidence to persuade us to re-appreciale it. The evidence has been considered minutely by the Courts below. Then he put forward a feeble right of private defence which has no substance. Then he made a fervent appeal before us regarding the sentence imposed.

2. It is useful to advert to one fact which has come out in the evidence in the case. The root cause of the gruesome murder appears to be the marriage of a lady belonging to a higher caste with a Harijan boy. The High Court deals with it in paragraph 19 as follows:

19. It may be pointed out that it is clear from the evidence that the incident occurred when the Appellant Mahesh had broken the earthen pet of the deceased Narbad Bai at the well on the ground that the Appellants treated Pooran and his mates of the lower caste because Jankibai, one of the daughters of Pooran had

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taken a Hariian as her husband.

3. The High Court felt compelled to express its concern about the evil of untouchability in paragraph 18, at page 46, as follows:

It is unfortunate that evil of untouchability was still prevalent in some parts of our country even after 38 years of independence and 30 years of coming into force of the Unsociability (Abolition) Act 1955 which is evident by the facts of the instant case. Indeed it is a matter of great concern that very often there occur grave occurrerces including group murders resulting in untimely death of innocent persons by those who still believe in untouchability as their way of life. The present case is one of those gravest killings, and ghastly murders of five persons by the Appellants who deserve condemnation by awarding severest punishment provided under the law.

4. The evidence shows that Mahesh axed Narbad Bai without any provocation, from any member of his family. Thereafter, Pooran was assaulted and axed by Mahesh. When the assault of these two persons, by the father and son, was on, the mother of Pooran came from inside and questioned as to why they were doing this. She too was killed by giving her axe blows by the Appellants. When the neighbour Gulab asked the Appellant as to why they were murdering these people, he was also axed to death by the Appellants. A young girl aged about 14 years standing near the bathing place at the corner of the house was also not spared. Mahesh gave her an axe blow, on receipt of which she fell down at some distance and died. The evidence further shows that the blood thirst of the accused was so intense that they knocked and tried to break open the door of room where Nandram, P. W. 1 and his wife Savithri Bai, P. W. 2 were hiding to save themselves and they left the place only when the door could not be broken.

5. It is against this background that the request of the Appellant's counsel for interference with the sentence has to be considered. The High Court observes that the Act of the Appellant "was extremely brutal, revolting and gruesome which shocks the judicial conscience." And again as "in such shocking nature of crime as the one before us which is so cruel, barbaric and revolting, it is necessary to impose such maximum punishment under the law as a measure of social necessity which work as a deterrent to other potential offenders".

6. We share the concern of the High Court. We also feel that it will be a mockery of justice to permit these Appellants to escape the extreme penalty of law when faced with such evidence and such cruel acts. To give the lesser punishment for the Appellants would be to render the justicing system of this country suspect. The common man will lose faith in Courts. In such cases, he understands and appreciates the language of deterrence more than the reformative jargon When we say this, we do not ignore the need for a reformative approach in the sentencing process. But here, we have no alternative but to confirm the death sentence. Accordingly, we dismiss the appeal.

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