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IN THE HIGH COURT OF DELHI AT NEW DELHI

Hon'ble Mr. Justice R.S.Sodhi And Hon'ble Mr. Justice P.K. Bhasin

State (through CBI) \_\_\_\_\_ Appellant;

v.

Santosh Kumar Singh \_\_\_\_\_  
Respondent

Criminal Appeal No.233 of 2000, decided on October 30th, 2006

Through Mr. A. Sharan, ASG with Ms. Mukta Gupta, Mr. Ashok Bhan, Mr. Amit Anand Tiwari, Mr. Devashish Bharuka, Mr. Farook Razack, Mr. Ankur Jain, Mr. Ashwin Vaish, Advocates

Through Mr. R.K. Naseem with Mr. Manu Sharma, Mr. Sachin Sharma, Mr. Shubham Asri, Mr. Dinesh Sharma, Advocates

1. Whether Reporters of local papers may be allowed to see the judgment?  
(Yes)
2. To be referred to the Reporter or not? (Yes)
3. Whether the judgment should be reported in the digest? (Yes)

The Judgment of the Court was delivered by

R.S. Sodhi, J. (Oral):

1. By our judgment dated 17th October, 2006 we had held Santosh Kumar Singh guilty under Sections 376 and 302 IPC. We had adjourned the case to give the convict an opportunity to be heard on the question of sentence. Today learned counsel Mr. R.K. Naseem appearing for Santosh Kumar Singh has pleaded that this is not a case which falls within the ambit of 'rarest of rare' cases which should invite the death penalty. He submits that it cannot be ruled out that there is no possibility of the convict being reformed and rehabilitated. He also submits that there is nothing on record to show that the convict would commit

any acts of violence which would constitute a continuing threat to the society. Regarding the mitigating circumstances, learned counsel submits that the trial court acquitted the accused on the same set of evidence which has been reevaluated and found sufficient by this court to convict the acquitted accused. This fact, according to counsel, must be taken into consideration and it weighs heavily in favour of the convict. He also submits that during all this period after he had been acquitted he has shown no propensities of committing crime. He also submits that while in jail during the trial the convict was rendering legal aid to the inmates of Tihar. He has now married and is a father of a two years old girl. He further submits that the convict also has greater responsibilities on his shoulders due to the age of his parents and the illness of his father and is also to take care of a mentally challenged brother. He has referred to some judgments of the Supreme Court where in cases of rape and death the Supreme Court has held that those cases are not of 'rarest of rare' type. He, therefore, contends that this case does not come within the purview of rarest of the rare category of cases requiring the sentence of death.

2. Learned Additional Solicitor General on the other hand arguing for the State submits that this is a case in which death was caused of a helpless girl in a diabolic, brutal, gruesome and inhuman manner which fact has been held to be so even by the trial court while acquitting the accused. He further submitted the manner in which the convict went about satisfying his brutal lust needs no other sentence but death. He submits that the convict would be a danger to the society and that the possibility of his reformation is totally ruled out. He draws the attention of this court to the repeated number of warnings given to him by the local police as also his repeated assurances that he shall not commit any acts of violence or stalking the deceased, yet unmindful of the rule of law, being a son of a senior police officer, he continued his animal pursuit to the extent that on 23rd January, 1996 he marked each and every movement of his victim and seeing time when she was least protected being alone barged into her house and brutally assaulted the deceased, raped her and then strangled her to death. He also points out that the convict is none other than a lawyer who is supposed to be well versed in law and the society expected much more of him being a lawyer than anyone else but least caring for the noble profession he committed the heinous acts. Learned ASG submits, that this is a 'rarest of rare' case which deserves the imposition of death penalty . He has also cited some judgments of the Hon'ble Supreme Court wherein death penalty was given in cases of rape-cum-murder.

3. We have heard learned counsel for the parties and have given our consideration to what has been placed before us. We need hardly say that sentencing is the most difficult part of a judgment and this indeed has been a case here. There is absolutely no doubt in our mind that what was required of Santosh Singh was exemplary behaviour being a son of a police officer and also a lawyer himself yet with a pre-meditated approach he continued to harass the victim for nearly two years and ultimately in spite of repeated warnings by the police and his undertakings to them went about committing a most ghastly act.

The act itself sent ripples in the society and showed how insecure a citizen can get against this kind of a person. In the various judgments which have been referred to by counsel from both sides we find the principles laid down to be considered while deciding the question of sentence are best reported in 'Bachan Singh vs. State of Punjab', AIR 1980 SC 898 and 'Machhi Singh vs. State of Punjab', 1983 SC 211. These cases sum up the law on the subject of death penalty which we have kept in mind. Evaluating the circumstances in favour and against the convict which have already been enumerated above, we find that the aggravating circumstances referred to by the Additional Solicitor General far outweigh the circumstances which according to the counsel to the convict are mitigating circumstances, although we do not consider them to be so. We are thus of the opinion that for a crime of this sort which has been committed with premeditation and in a brutal manner the convict deserves no other sentence but death.

4. Accordingly, we sentence the convict Santosh Kumar Singh to death under Section 302 IPC. He shall be hanged by the neck till death. We also sentence the convict to life imprisonment under Section 376 IPC and to pay fine of Rs.5,000/-, in default of payment of fine he shall undergo further imprisonment for a period of two years.

5. Copy of this order be also provided to the convict who has been produced from jail today.

6. Necessary warrant be prepared and forwarded to the Jail Superintendent for compliance.