PETITIONER:
MAHESH S/o. RAM NARAIN ETC.

Vs.

RESPONDENT:
STATE OF MADHYA PRADESH

DATE OF JUDGMENT27/03/1987

BENCH:
KHALID, V. (J)
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KHALID, V. (J)
OZA, G.L. (J)

CITATION:
1987 AIR 1346 1987 SCR (2) 710
1987 SCC (3) 80 JT 1987 (1) 793
1987 SCALE (1)594
CITATOR INFO :
R 1991 SC1463 (8)

ACT:
Indian Penal Code, 1860: s. 302--Murder of five persons Root cause--Marriage of a lady of High Caste to Harijan boy--High Court homing act of accused extremely brutal, gruesome and shocking to judicial conscience--Death sentence given--Confirmed by Supreme Court.
Criminal Trial.
Sentence--Imposition of extreme penalty--Necessity for in cases of gravest killings and ghastly murders.

HEADNOTE:
The prosecution alleged that the appellants--father and son, had committed the murder of five innocent persons. The root cause of the crime was said to be that one of the daughters of the deceased had taken a Harijan as her husband, and for that the appellants were treating them as lower caste. The evidence showed that the appellants had assaulted and axed the wife, husband and his mother without any provocation from them. A neighbor, who asked as to why the appellants were murdering those people, was also axed to death. A young girl aged about 14 years, who was standing near the scene of occurrence, was also not spared. The blood thirst of the appellants was so intense that they then knocked and tried to break open the door of the room where P.W. Nos. 1 and 2 were hiding to save themselves, and they left the place only when the door could not be broken.
The appellants were convicted under s. 302, I.P.C. and sentenced to death. The High Court observed that the case was one of the gravest killings and ghastly murders, that the act of the appellants was extremely brutal, revolting, gruesome and shocking to the judicial conscience, and that the nature of crime being so cruel and barbaric it was necessary to impose the maximum punishment under the law as a measure of social necessity to work as a deterrent to other potential offenders.
Dismissing the Appeals of the appellants, the Court,
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HELD: There is no alternative but to confirm the death sentence. The evidence has been considered minutely by the

courts below. 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 them would be to render the justicing system of this country suspect. The common man will then lose faith in courts, for in such cases he understands and appreciates the language of deferrence more than the reformative jargon. To say so, is not to ignore the need for a reformative approach in the sentencing process. [713A-C]

JUDGMENT:

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal Nos. 285 & 286 of 1986.

From the Judgment and Order dated 7/10.2.86 of the Madhya Pradesh High Court in Criminal Appeal Nos. 1403 to 1404 of 1985.

U.R. Lalit, G.K. Sharma and S.K. Sabharwal for the Appellants.

T.C. Sharma for the Respondent.

The Judgment of the Court was delivered by

KHALID, J. The appellants Ram Narayan and his son Mahesh have been convicted under Section 302 I.P.C. and sentenced to death. They are the residents of Village Hinota. They are alleged to have committed five murders on 21-6-1984 at about 6.30 P.M. The deceased are Puran Baraua, his wife, Narbad Bai, his mother, Mula Bai, his daughter Kumar Nanhi Bai and his neighbour Gulab. The learned counsel for the appellants tried to take us through the evidence to persuade us to re-appreciate 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.

It is useful to advert to one fact which has come out 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 occurrence when the appellant Mahesh had broken the earthen pot of the deceased Narbad Bai at the well on the ground that the appellents
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> treated Pooran and his inmates of the lower caste because Jankibai, one of the daughters of Pooran had taken a Harijan as her husband."

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 untouchability Act, 1955, which evident by the facts of the instant case. Indeed it is a matter of great concern that very often there occur grave occurrences including group murders resulting into untimely death of innocent persons by those who still believe in toucha-bility 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."

The evidence shows that Mahesh axed Narbadbai 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 appellants 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 the 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.

It is against this background that the request of the appellants' 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

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which work as a deterrent to other potential offenders."

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 deferrence 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 appeals.

P.S.S. Appeals dismissed.

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