

Apex Court on Death Penalty

The Hon'ble Supreme Court, through a majority decision, upheld conviction u/s 302, 376(2)(f) and (g) and 201 of the Indian Penal Code, 1860 and, had, awarded death penalty to the convict in the matter of Manoharan Versus State, through Inspector of Police. On 7th November 2019 the Hon'ble Apex Court, through a bench comprising of Hon'ble Justice Rohinton Nariman and Hon'ble Justice Surya Kant upheld this decision and dismissed the review petition filed by the Convict. Salient observations of the judgment are enlisted hereinafter:-

1. In pursuance of the precedent Mohd Arif @ Ashfaq versus Registrar, Supreme Court of India (2014) 9 SCC 737, Review Petition for death penalty was heard in open Court, due to the irreversible nature of the sentence.
2. The scope of Review Petitions even in the case of Death Penalty is to be construed narrowly and a mere change and addition of grounds cannot be allowed at the stage of Review, as held in the case of Vikram Singh Versus State of Punjab (2017) 8 SCC
3. Even though the confessional statement was retracted, the petitioner had made substantial admissions which read along with the evidence presented by the prosecution were sufficient to convict the petitioner.
4. The argument with respect to insufficient legal representation was rejected in pursuance of Strickland Versus Washington, 466 U.S. 668(1984), wherein it was held that the petitioner must show that the assistance of the counsel was insufficient and had he received adequate assistance the outcome of the case would have been different.

Thus the review petition was dismissed. It was held, *“Rather, the present case is essentially one where two accused misused societal trust to hold as captive two innocent school-going children, one of whom was brutally raped and sodomised, and thereupon administered poison and finally, drowned by throwing them into a canal. It was not in the spur of the moment or a crime of passion; but craftily planned, meticulously executed and with multiple opportunities to cease and desist. We are of the view that the present offence(s) of the Petitioner are so grave as to shock the conscience of this Court and of society and would without doubt amount to rarest of the rare. 68. Hence, we find that there exist no grounds to review our judgment upholding conviction and death penalty. The review petitions are accordingly dismissed..”*