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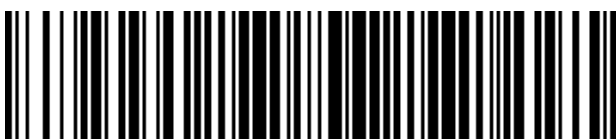
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Case Commentary: Bachan Singh v. State of Punjab

Aziz Sayeeda

INTRODUCTION

***Bachan Singh v. State of Punjab* AIR 1980 SC 898**

Bench: Justice Y. V. Chandrachud, Justice N. Untwalia, Justice P. N. Bhagwati, Justice A. Gupta, Justice R. Sarkaria.

Death Penalty is a punishment given to a person who commit crime. It is legally authorized punishment. Capital punishment is a legal process by the state as a punishment for a crime. Death penalty is a highest punishment given. But this punishment's constitutionality is challenged most of the time in numerous cases as they argue that article 21 grants everyone right to life so, it is against constitution and also against the morality and ethical values because no one has the right to take anyone's life. The constitutionality was challenged first in the case of *Jagmohan Singh v. State of U.P.*¹. But capital punishment is very important as it reduces the possibility of repeated crimes.

BACKGROUND

Capital Punishment in India will be awarded only in the rarest of the rare cases and this principle of rarest of the rare case laid down in the case of *Bachhan Singh v. State of Punjab* AIR 1980. It is the landmark case in criminal law which is related to the constitutionality of the capital punishment provided for murder. And section 302 of Indian Penal Code 1860 and section 354(3) of the CrPC 1973 was challenged. This case is later cited in number of cases.

FACTS OF THE CASE

The petitioner earlier was charged of life imprisonment for his wife's murder. After the release Bachan Singh killed three persons. The petitioner in this case was convicted and sentenced by the session's judge under Section 302 of the Indian Penal Code for the murder of three persons Desa Singh, Durga Bai, Veeran Bhai. Later, the petitioner goes to the high court and high court also confirm the capital punishment which was earlier given by the session's judge and dismissed his appeal. Then he appeal to the supreme court by special leave petition provided under article 136 of the Indian Constitution.

¹ AIR 1973.

ISSUES RAISED

The two issues were raised in this case.

1. Whether Section 302 of the Indian Penal Code 1860 is Constitutional or not?
2. The procedure which is followed under section 354(3) of the Criminal Procedure Code 1973 is valid or not?
3. The facts which are found by the session would be considered special reason for giving capital punishment as required under section 354(3) of CrPC or not?

JUDGEMENT BY THE 5 JUDGES BENCH OF THE HON'BLE SUPREME COURT

The supreme court held that article 19 clause 1 of the constitution are not absolute rights and also one cannot use his rights which injure the same rights of another- “sic uterituo ut alienum non laedus”.² Under clause 2 to 6 the rights which has been made are subject to the power of the state to impose reasonable restrictions and even the state can prohibit those rights. Further supreme court held that section 302 of IPC and 354(3) of CrPC is constitutionally valid. Court said that the punishment for murder is life imprisonment and the death penalty is the exception and special reasons in section 354(3) of CrPC means exceptional reasons and directs the court that when they have special reasons then only they can punish the person for the offence of death or life imprisonment.³ The capital punishment will granted only in the exceptionally grave situations and laid down the principle of **Rarest of the rare case**. But justice Bhagwati have different opinion from other as he thinks that capital punishment violates article 14 and 21 of the constitution and section 302 of IPC is ultra virus. The ratio is 4:1 and the judgement of majority considered. While giving the judgement the court relied upon the judgements of *Jagmohan singh v. State of U.P* and *Rajendra Prasad v. State of U.P*.⁴

² Rahul Agarwal, Case Summary Bachan Singh v. State of Punjab, available at <https://www.educentric.in> (last visited on 3rd October 2020).

³ Available at <https://www.indiankanoon.org> (last visited on 4th October 2020).

⁴ Aditi Mishra, Bachan Singh v. State of Punjab, available at <https://www.lawtimesjournal.in> (last visited on 4th October 2020).

CRITICAL ANALYSIS OF THE CASE

This *Bachan Singh v. State of Punjab* is the landmark case related to the capital punishment as in this case the Doctrine was introduced which says that the capital punishment will only be awarded in the rarest of the rare case. Further, the court said that the life imprisonment is the rule and the death penalty is exception which clears that penalty will only be granted in the exceptional cases. Capital punishment is very important as it act as a deterrent, creates fear in the mind of the criminal and also for the elimination of the criminals. Because of the capital punishment the possibility of the repeated crimes reduces and also it is a fit punishment for those who have deliberately violated the sanctity of human life that is why capital punishment is important for our society and must be given in the grivious cases. The doctrine of rarest of the rare case later cited in number of cases like *Kehar Singh v. Delhi Administrator*⁵ in which the court applied this doctrine and grant death penalty. However, this case does not clear what comes under the rarest of the rare case, there is no statutory definition of rarest of rare it depends upon the situation which is the lacking point of the judgement.

⁵ AIR 1988.