



NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NOS.1179-1180 OF 2023

REJI KUMAR ALIAS REJI ... APPELLANT

Versus

STATE OF KERALA ... RESPONDENT

J U D G M E N T

SANJAY KAROL, J.

1. This case is the second one of its nature that has become ripe for judgment in a short while wherein a husband and father has allegedly forgotten all propriety, morality and responsibility toward his family members. The prosecution contends that Reji

Kumar – appellant herein had, over a period of few days killed his wife Lissy and four children, namely, 1st daughter (12 years old), son (10 years old), 2nd daughter (9 years old) and 3rd daughter (3 years old). We are left to wonder as to how someone who is supposed to feel the utmost love, care and affection for the young lives could have come to committing such a crime - where the lights of these lives have been extinguished in the most brutal of manners.

2. These appeals are directed against the final judgment and order dated 12th November, 2014 in Death Reference No.1/2010 and Criminal Appeal No.1663 of 2010 passed by the High Court of Kerala at Ernakulam. The former travelled up to the High Court by way of statutory requirement and the latter was preferred by the appellant against the conviction and sentence recorded against him by the Sessions Court, Palakkad in S.C.No.114 of 2009, under Sections 302, 376, 297 and 201 of the Indian Penal Code, 1860¹.

Brief Facts

3. The facts, as set out by the Courts below giving rise to the present appeals, are :

¹ Hereinafter ‘IPC’

3.1 The appellant-convict was employed in the fields of one Aboobacker Sidique (PW-1) as an agricultural worker at a monthly salary of Rs.7,000/- and used to live in rented accommodation, in the ownership of Rasheed PW-6. In the course of such employment, he developed intimate relations with Baby alias Usha PW-24. Lissy went missing on 9th July, 2008. On 11th July 2008 he took his son and 3rd daughter saying that he would return with his wife and children. Thereafter, the neighbours made repeated inquiries but were always met with evasive answers.

3.2 On 20th July 2008, he informed PW-1 that he was headed to Kottayam and would return on the same day with his family. On 21st and 22nd July 2008, Safina PW-2, wife of PW-1 noted that the house was locked from the outside, but the next day she found it locked from inside. When, on knocking she got no answer, she informed her husband and they together investigated the house. Finally, three people secured entry - PW-1, his brother Biju PW-4 and PW-6 and found 1st daughter and 2nd daughter lying prone, dead. The police were informed, and accordingly, FIR No.456/08 dated 23rd July, 2008 came to be registered at PS Pattambi, District Palakkad.

3.3 Also on 25th July 2008, the bodies of Lissy, the son and 3rd daughter were discovered in the septic tank and the

nearby fields respectively, after people were alerted by a foul smell emanating from the former location. The requisite documentation regarding recovery of all the deceased persons was prepared.

3.4 The appellant convict was taken into custody on 27th July, 2008.

3.5 The final report was submitted under Section 302, 376, 297 and 201 IPC before the Judicial 1st Class Magistrate, Pattambi on 23rd October, 2008, from where it was committed to the Court of Sessions. The appellant convict was defended by legal aid counsel.

Trial Court

4. The convict appellant pleaded not guilty. To prove its case, the prosecution examined 44 witnesses marked 72 exhibits and identified 36 material objects. The Court framed six issues for consideration :

“1. Whether the accused has caused the death of Lissy, 1st daughter, 2nd daughter, son and 3rd daughter?

2. Whether the accused committed rape or his daughter 1st daughter?

3. Whether the accused has caused disappearance of evidence as alleged by the prosecution?

4. Whether the accused has shown disrespect to the dead body so as to attract an offence under Section 297 IPC?

5. What are the offences if any committed by the accused?

6. What is the sentence to be imposed?"

5. In paragraph 22, the Court takes notice of the circumstances sought to be proven by the prosecution against the appellant-convict, which read as follows :

- “a. The motive for committing the crime;
- b. The fact that the accused and deceased were last seen together by some of the prosecution witnesses;
- c. Conduct of the accused and the falsity of the explanation given by him;
- d. Recovery of certain material objects; and
- e. Medical and scientific evidence”

After detailed consideration of the evidence under the heads as above, it was concluded by the Trial Court that the convict-appellant had indeed committed the murders of his wife and four children. It was also concluded that he had deliberately concealed the bodies of the deceased persons and caused disappearance of evidence of such acts in order to escape from punishment. As such, he was convicted for having committed offences punishable under the Sections noted in paragraph 2. On the charge under 297 IPC it was held that the evidence as produced by the prosecution was insufficient to sustain the same.

He was, therefore, acquitted of said charge. On the aspect of sentence, the Court considered the following factors in awarding capital punishment :

- a) The nature of the crime being extremely brutal, diabolical and revolting;
- b) The appellant-convict had a responsibility to nurture and protect, instead he became the destructor and killed helpless children;
- c) He betrayed the trust of his wife. It is not as if he is an uneducated man. He holds a degree in chemistry and a graduate diploma in computer applications;
- d) The manner of commission of the crime was well arranged and planned. The defence counsel's argument that the offence was out of unhappiness and frustration, and not criminal tendency, was rejected.

Placing reliance on *Siriya alias Shri Lal v. State of Madhya Pradesh*², the appellant-convict was sentenced to death. For the offence under Section 376 IPC he was sentenced to 10 years' rigorous imprisonment and for the offence under Section 201 IPC he was sentenced to rigorous imprisonment of 7 years. Both these offence also carried a fine of Rs.1,000/-, in default

² (2008) 8 SCC 22

whereof one month's simple imprisonment was also to be undergone. They were all to run concurrently.

High Court

6. Vide the impugned judgment, the High Court after reviewing the evidence and addressing the arguments of the counsel, it was held that the argument of the appellant-convict that the case of the prosecution is feeble and the findings of guilt cannot be sustained, is not liable to be accepted. The finding of guilt is justified on the basis of the material placed on record.

After considering various judgments of this Court, it was observed :

“59. Here, the evidence is conclusive enough to hold that the appellant had no repentance at all. After finishing off 1st daughter and 2nd daughter the appellant left the place and after reaching Kottayam he telephonically expressed his desire to join PW24. The evidence would indicate that the intention of the appellant was to live with PW24 after annihilating his family. This is a strong indication which compels us to hold that the alternative option of rehabilitation is unquestionably foreclosed.

60. The appellant was educated and it has come out in evidence that during some time he had worked as an advocate's clerk. The socio economic background of the appellant not at all justifies any of this actions. Therefore, such a mitigating factor is absent in the present case. We have come to this conclusion after

approaching the question of sentence from a broad sociological point of view.

X

X

X

63. Here the facts of this case would reveal that the appellant planned the murder of his wife and four children and executed the same in succession, during a period of two weeks, which would indicate that it was a pre-calculated cold blooded murder.

X

X

X

68. Viewed in that profile, we are of the definite and considered view that the crime committed by the appellant in this case satisfies the crime test fully whereas, it does not satisfy the criminal test at all. The nature of the offences and the manner in which offences have been committed to not help the tilting of balance in favour of the appellant. While carrying out this complex exercise, we cannot forget our obligation to see the impact of the offence on the society as a whole and its profound ramifications. Therefore, we are of the view that the sentence imposed by the trial court on the appellant does not call for an interference and the imposition of a the lesser alternative is unquestionably foreclosed for the reasons stated above.

In the result, we uphold the findings of guilt and conviction of the appellant under Sections 302, 376 and 201 of the Indian Penal Code and confirm the death sentence imposed upon the appellant by the trial court under Section 302 IPC in exercise of the powers conferred on this Court under Section 368 read with Section 366(1) Cr.P.C., as there is absolutely nothing to interfere with the order of sentence.

The Death Reference is answered accordingly.

We also confirm the sentence imposed upon the appellant under Section 376 and 201 IPC.”

7. It is in this background that the confirmation of death sentence, in a statutory appeal as also the convict-appellant's appeal against judgment and sentence, is before us.

8. We have heard Ms. Sonia Mathur and Mr. P.V. Dinesh, learned Senior Counsel appearing for the respective parties.

9. Consideration of the evidence by the Trial Court has taken place under the heads of motive, the circumstance of last seen, conduct of the accused, recovery of material objects and medical, scientific evidence. We shall adopt the same method. The following is a tabular encapsulation of the witnesses relied on by the Trial Court and independently re-examined by the High Court in order to establish the guilt of the convict-appellant -

| Sr. No. | Heading | Relied on |
|---------|---------------------------------|-------------------------------------------------------------------------------------------|
| 1. | Motive | Aboobacker Siddique PW-1, Krishnakutty PW13, Ushadevi PW-24 and Sheela Sara Abraham PW-26 |
| 2. | Last seen | PW-1, Safina PW-2, Suhara PW-7, Sajan Antony PW-9, Shaji K.R. PW-17 and Sunny PW-18 |
| 3. | Conduct | Sarojini Amma PW-25 and Ex.27 |
| 4. | Medical and Scientific evidence | Dr. P.C. Ignatius PW-31 and Ex.72 |

10. PW-1 testifies that he had no direct knowledge of conversations between PW-24 and the convict-appellant. PW-13, namely, Krishnankutty, has testified that he and PW-24 were very close and the factum of their closeness was told to him by the convict-appellant himself stating that he wished to marry her. PW-24, namely, Ushadevi @ Baby said that she and the convict-appellant would speak on the phone 10-15 times a day. She has testified that sexual relations took place between them on the night of 8th July 2007, i.e., the day that he had allegedly killed Lissy. The convict-appellant had apparently told her that there had been no conjugal relations between him and the deceased Lissy for the last five years and that the youngest child, namely, 3rd daughter, was not fathered by him. PW-26, namely, Sheela Sara Abraham, nodal officer of Tata Teleservices Ltd. testified that there had been numerous calls from the number '9288173334' to '9388920657' and later to '9961625774', both numbers belonging to the convict-appellant as testified by PW-24. She further stated that there was another number which ended in the numbers '812' and that they would often call each other using said number. Ex.27 are the call details between the numbers '9747017812' and '9961625774'. A cumulative consideration of the above testimonies does point to the presence of sufficient motive. He suspected infidelity on the part of the deceased Lissy and that she had borne a child out of wedlock,

along with the fact that there was no physical relation between them.

11. Now we consider the evidence in respect of the last seen theory. PW-1 testified that on 8th July 2008 he had seen Lissy walking along with the convict-appellant to their house. When he saw the convict-appellant working in the field on 13th July 2008 he enquired regarding Lissy and their two children to which the reply was that they were away visiting her maternal uncle and would be back on 17th July 2008. When they did not return on the said date, he said that one of the children was being admitted to a convent at Pala for studies and he would go there on 20th and return with his wife on the same day. Yet he did not return. PW-1 stated to have been present at the time of recovery of the bodies as well. PW-2 states that she saw Lissy on 8th July 2008, her son and 3rd daughter on 11th July 2008, i.e., the day after they had taken these two children along with themselves to attend a wedding on 10th July 2008. The other two children, 2nd daughter and 1st daughter were last seen when they were at home in the summer vacations. She further testified that around this time, when she had enquired from the convict-appellant regarding Lissy, she was also told the same story as PW-1. PW-7 namely Suhara, a neighbour of PW-1, stated that she had seen the convict appellant getting down from an autorickshaw with his children - son and 3rd daughter and entering the house on 12th July 2008.

This has been taken as clinching evidence by the Courts below. PW-9, namely, Sajan Antony, the Headmaster of St. Joseph's UPS, Vellilappally, has testified that on 22nd July 2008 the convict-appellant came to the school desiring to take away 1st daughter and 2nd daughter, on the pretext that his mother had passed away, to which he had no objection but said that requisite permission should be taken from the concerned authority of the children's home where they resided. Connected with the above is the convict-appellant's travel to Kottayam and stay at Bino Lodge from 20th July 2008 to 21st July 2008, which fact is testified to PW-17 and PW-18.

12. In regard to the conduct of the convict-appellant, the Courts below have taken note of the following factors :

- (a) Repeatedly giving false statements regarding the whereabouts of Lissy, 1st daughter and 2nd daughter when enquiries were made about them by PW-1 & PW-2.
- (b) Not turning up or making himself available even after the incident had been reported widely across all forms of media.
- (c) Travel to Kottayam immediately after the death of his son and 3rd daughter, as also making of the phone calls to PW-24 on the same day expressing desire to meet her. By such time the news regarding the death of two of his

children had spread and when she informed him of the same, his response was allegedly cool.

All of these factors, pointed to suspicious conduct on the part of the convict-appellant. We agree with such a conclusion. It is inconceivable to us as to how a person can have a calm response, brushing off allegations levied against him of having killed his own children, especially, when the same is being informed to him by a person who possesses intense feelings for and because of which she refuses to meet him. That apart, there is also another important aspect, i.e., the gaps in the deaths of the five persons. Lissy went missing on 8th July 2008, two of the children were last seen on 12th July 2008 and the other two were collected all the way from another city and then killed. It is also to be noted that the reason why he wanted to take away the two children studying in a boarding school was that his mother, Sarojini Amma, had died. This was plainly a lie. In fact, she has testified as PW-25. This suggests to us a clear plan in the mind of the convict-appellant to end the lives of all members of his immediate family. Such conduct is certainly reeking of guilt.

13. The prosecution has used scientific and medical evidence to establish the factum of rape being committed on 1st daughter by the convict-appellant. PW-31 - Dr. P.C. Ignatius, who was at the relevant time Associate Professor and Deputy Police Surgeon in the Medical College Hospital, Trissur, testified that the cause

of death of 1st daughter was throttling. He reported the detection of semen and spermatozoa due to the possibility of sexual assault. He also noted that there were old tears in the hymen of 1st daughter, indicating prior sexual assault. Ex. P72 (*appended at page 564 of convenience compilation*), which is the DNA Report prepared by the Senior technical examiner, shows that semen collected from the convict-appellant matches the biological fluid present in the vaginal swab of 1st daughter. There can be no denying the same. It has also been observed by the learned Trial Court that there was no gap in the collection of samples, then being taken to the lab and the report thereof being prepared. Hence, we see no reason to take a different view on this count.

14. With the above discussion, the primary charges of Sections 302 (four counts) & 376 (one count) IPC, stand proved. We affirm the findings of the Courts below. The conviction of the convict-appellant, therefore, remains undisturbed. We shall now proceed to the aspect of sentence.

15. The Courts below, upon consideration of a sum total of circumstances, found the instant case to be fitting into the rarest of rare doctrine as discussed in ***Bachan Singh v. State of Punjab***³. The question before us now is whether such determination was correct and/or justified. In order to examine the same, we must look into the aggravating and mitigating

³ (1980) 2 SCC 684

circumstances of the present case. Prior to doing so, we may elude the findings made in the Probation Officer's report, mitigating investigator's report and the report of psychological assessment submitted to this Court in compliance of the principles laid down in *Manoj v. State of Madhya Pradesh*⁴. The following factors can be cumulatively noticed from the above reports:

- (a) Unblemished conduct in prison - the jail authorities appeared to have trust in him and he has repeatedly been given positions which require discipline, responsibility and reliability;
- (b) Severe mental distress - He has exhibited certain behaviours that are means of coping with overwhelming distress originating in the past from issues, such as neglect parental mental illness and substance dependence, unstable home environment, physical and sexual abuse, all of these factors have been amplified by the uncertainty of being on death row;
- (c) Renewed sense of purpose - He has used the money earned to donate to different causes, such as towards the bail amount of co-prisoners, totaling Rs.83,000/-. He is also stated to have hopes to spend time in social service in the future. His issues with anger seem to have abated.

⁴ (2023) 2 SCC 353

(d) No criminal antecedents prior to the said acts and no violent acts perpetrated in jail.

16. The aggravating circumstances have already been discussed in the preceding paragraphs, but are once again pointed out here:

- (a) Brutality of the crime;
- (b) Pre-determined intention to kill all family members;
- (c) No remorse even after having killed one person since there was adequate time between the killings of Lissy, which is presumed to be on 8th July 2008 when she disappeared, and of two of the children few days later and the two other children almost ten days thereafter;
- (d) Sexual assault on his own daughter;
- (e) Multiple persons killed.

17. Keeping in view the discussion made in *Ramesh A. Naika v. Registrar General, High Court of Karnataka Etc.*⁵ and considering the facts that the convict-appellant had no prior antecedents; good conduct for the past 16-17 years of incarceration; difficulties in mental health and consistent efforts at being a model prisoner, we find that the imposition of death penalty would be unjustified. He is, therefore, removed from death row. However, considering the severity of the crime, the

⁵ 2025 SCC OnLine SC 575

number of persons killed, that out of five four were his own children, we are of the view that he does not deserve to be set free and direct that he shall spend the remainder of his days in jail, till his last breath, hoping to do acts of penance to atone for the crimes he has committed and particularly for the fact that he extinguished four bright flames.

18. The appeals are partly allowed accordingly. The death sentence is commuted to life imprisonment till the end of natural life. The appeal filed by the convict-appellant is partly allowed.

Pending application(s), if any, shall stand disposed of.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANJAY KAROL)

.....**J.**
(SANDEEP MEHTA)

New Delhi;
22nd April, 2025.