

ITEM NO.1502

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SMW (Cr1.) No.1/2022

IN RE:

FRAMING GUIDELINES REGARDING POTENTIAL MITIGATING
CIRCUMSTANCES TO BE CONSIDERED WHILE IMPOSING DEATH
SENTENCES

Date : 19-09-2022 This petition was called on for pronouncement of Judgment today.

Counsel for the Parties:

Mr. K.K. Venugopal, Attorney General For India
Mr. Ankur Talwar, Adv.
Ms. Suhasini Sen, Adv.
Ms. Chinmayee Chandra, Adv.
Mr. Siddhant Kohli, Adv.
Mr. Shikhil Suri, Adv.

Mr. Siddhartha Dave, Sr. Adv./Amicus Curiae
Mr. K. Parameshwar, Adv./Amicus Curiae
Ms. Jemtiben AO, Adv.
Ms. Vidhi Thaker, Adv.
Mr. Prastut Dalvi, Adv.
Ms. Aarushi Singh, Adv.
Mr. Madhav Chitale, Adv.
Ms. A. Sregurupriya, Adv.
Mr. M.V. Mukunda, Adv.
Ms. Arti Gupta, Adv.

Mr. Saurabh Mishra, AAG
Ms. Ankita Choudhary, DAG
Mr. Pashupathi Nath Razdan, AOR
Ms. Rukhmini Bobde, Adv.
Mirza Kayesh Begg, Adv.*
Mr. Prakhar Srivastava, Adv.
Mr. Astik Gupta, Adv.
Ms. Ayushi Mittal, Adv.
Mr. Vipul Abhishek, Adv.

Mr. Siddharth Agrawal, Sr. Adv.
Ms. Shreya Rastogi, Adv.
Ms. Shivani Misra, Adv.
Mohd. Irshad Hanif, AOR*

Mr. Gaurav Agrawal, AOR

Hon'ble Mr. Justice S. Ravindra Bhat pronounced the Reportable Judgment of the Bench comprising Hon'ble the Chief Justice of India, Hon'ble Mr. Justice S. Ravindra Bhat and Hon'ble Mr. Justice Sudhanshu Dhulia.

The operative portion in terms of the Signed Reportable Judgment reads as under:

"1. This order is necessitated due to a difference of opinion and approach amongst various judgments, on the question of whether, after recording conviction for a capital offence, under law, the court is obligated to conduct a *separate* hearing on the issue of sentence.

X X X

23. In light of the above, there exists a clear conflict of opinions by two sets of three judge bench decisions on the subject. As noticed before, this court in *Bachan Singh* had taken into consideration the fairness afforded to a convict by a separate hearing, as an *important safeguard* to uphold imposition of death sentence in the rarest of rare cases, by relying upon the recommendations of the 48th Law Commission Report. It is also a fact that in all cases where imposition of capital punishment is a choice of sentence, aggravating circumstances would always be on record, and would be part of the prosecution's evidence, leading to conviction, whereas the accused can scarcely be expected to place mitigating circumstances on the record, for the reason that the stage for doing so is after conviction. This places the convict at a hopeless disadvantage, tilting the scales heavily against him. This court is of the opinion that it is necessary to have clarity in the matter to ensure a uniform approach on the question of granting real and meaningful opportunity, as opposed to a formal hearing, to the accused/convict, on the issue of sentence.

24. Consequently, this court is of the view that a reference to a larger bench of five Hon'ble Judges is necessary for this purpose. Let this matter be placed before the Hon'ble Chief Justice of India for appropriate orders in this regard."

(MUKESH NASA)

AR-cum-PS

(Signed Reportable Judgment is placed on the File)

(VIRENDER SINGH)

BRANCH OFFICER