

An Account on Capital Punishment and Court Jurisdiction Based on Death Sentence in India

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Abstract – India is a well creating nation in the meantime heaps of crime rates were expanding these days. Death penalty is a standout amongst the most discussed, old types of punishment in pretty much every general public. In the rarest of uncommon case death penalty can be forced on the indicted individual. Legal Provisions are referenced in the Indian Penal Code and Criminal Penal Code. As indicated by Article 21 of the Indian Constitution, No individual will be denied of his life or individual freedom aside from as per methodology set up by law. There are heaps of enactments in India to stop and control crimes, despite the fact that the crime rates are expanding in light of the fact that the punishments are not adequate for the crimes. The punishment ought to be extreme to diminish the crime rate. In such huge numbers of cases death penalty affirmed by Supreme Court of India. In 21st century 140 nations has nullify Capital Punishment, as of late The Law Commission of India in Report No. 262 presented that Death Penalty bit by bit may annul. There are various types of punishment in India, for example, capital punishment, life imprisonment, imprisonment and so on. Capital punishment is known as the most extreme type of punishment. In this Research Study, we studied about Court Jurisdictions, Confirmations for the Death Penalty and the pardoning procedures for Capital Punishments in detail.

Keywords: Capital Punishment, Death Penalty, Indian Constitution, Jurisdiction etc.

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I. INTRODUCTION

India is a nation which comprise of huge number of crimes and criminals. In India all punishments depend on the intention to give penalty for the transgressor. There are two primary explanations behind imposing the punishment, one is the miscreant ought to endure and other one is imposing punishment on wrongdoers debilitates other from fouling up. There are various types of punishment in India dependent on their offense, for example, capital punishment, imprisonment, life imprisonment, imprisonment with fine, and so on.,. In this examination the analyst concentrated on capital punishment or death penalty [1]. The capital punishment banter is the for the most part applicable discussion, remembering the circumstance that has been achieved by today. Capital punishment is a necessary piece of the Indian criminal justice system. Expanding quality of the human rights development in India, the presence of capital punishment is addressed as shameless. Anyway this is an odd contention as keeping one individual alive at the expense of the lives of various individuals or potential unfortunate casualties in the general public is amazing and actually, that is ethically off-base.

II. CAPITAL PUNISHMENT

Capital Punishment is one of the significant pieces of Indian criminal justice system. Crimes result in death penalty is known as capital crimes or capital offenses. The term capital punishment is gotten from the Latin word "capitalis" signifies "with respect to the head". The term death penalty is otherwise called capital punishment. Capital Punishment is a procedure by an individual is executed by a state for their criminal offense. Capital punishment or death penalty implies the offender sentenced to death by the court of law for a criminal offense. Capital punishment, likewise called death penalty, execution of an offender sentenced to death after conviction by a court of law for a criminal offense [2]. Capital punishment ought to be recognized from extrajudicial executions did without fair treatment of law. The term death penalty is now and again utilized conversely with capital punishment, however inconvenience of the penalty isn't constantly trailed by execution (notwithstanding when it is maintained on claim), in light of the likelihood of commutation to life imprisonment. Capital punishment which has been granted for the most offensive crimes against humanity. Death penalty varies from spot to put,

state to state and nation to nation. There are numerous human rights developments in India which says capital punishment is improper [3]. The human rights associations are contended that capital punishment influence one individual's correct. Granting capital punishment on rarest of uncommon cases incorporates a great deal of discussions in various judgments. The expression "Capital Punishment" stands for most serious type of punishment. It is the punishment which is to be granted for the most intolerable, heinous and abhorrent crimes against humanity. In jurisprudence, criminology and penalty, capital punishment implies a sentence of death. Indian criminal jurisprudence depends on the blend of two speculations. The constitution likewise offered powers to president and senator to suspend or absolve death sentence. In India capital punishment is granted for the most genuine and shocking offenses. Capital punishment is given for homicide, theft with murder, taking up arms against the government and abetting mutiny, and so forth [4]. The death sentence is given just when the court arrives at an end that life imprisonment is deficient, in view of circumstance of the case.

III. DEATH PENALTY

Death Penalty can be defined as the lawful infliction of death as a punishment for an illegitimate demonstration. In this paper, the extension and legitimacy of the death penalty with regards to the Indian legal executive will be talked about. Right off the bat we will take a gander at the coming of death as a punishment for crimes and how it has developed in a few other legal systems everywhere throughout the world. The idea of death sentence has been a topic of discussion for significant lot of time in and over the world. Lion's share assessment of open is that death penalty must be abolished as it disregards the Human Rights on the loose. Present day legal advisers are of the supposition that if killing isn't right, nothing can make it right either the legal or social authorization [5]. In the event that it isn't right for a man to slaughter another man, so it is notwithstanding for the State to do. It is discussed that death penalty has had no noticeable impact as an obstruction and has totally neglected to decrease the quantity of murders, which, in like manner makes the articulation of capital punishment totally futile. The death penalty or the capital punishment is awful in posting itself and when it is utilized for somebody of sicken every one of those hear this word. In this specific circumstance, the normal contentions identifying with death penalty put advances by the abolitionists and retentionists will be talked about. The significance has been given to the Indian setting and the different resolutions in India managing Capital Punishment. This will be trailed by a brief of probably the most well-known and significant cases identifying with the topic chosen by the Indian Courts. The point of this paper is to give the readers a reasonable understanding of the situation of the

Indian courts with respect to the granting of capital punishment.

The death penalty has existed since antiquity. Anthropologists even case that the illustrations at Vallaloid by ancient cave dwellers demonstrate an execution. The death penalty may have its beginnings in human penances. Capital punishment can be followed back as right on time as 1750 B.C, in the lextalionis of the Code of Hammurabi. The Bible too set death as punishment for crimes, for example, enchantment, infringement of the blasphemy, Sabbath, homosexuality, adultery, incest, rape and bestiality. Plato also talked about the extent of the death penalty finally in his laws. The death penalty is a legal procedure whereby an individual is executed by the state as a punishment for a crime. The legal pronouncement that somebody is rebuffed as such is a death sentence, while the real procedure of killing the individual is an execution. There has been a worldwide pattern towards the abrogation of capital punishment; in any case, India has not received this position. What makes this type of punishment not quite the same as the others is the undeniable component of irreversibility connected to it. A man once executed for a crime can never be breathed life into back. So if any blunder has sneaked in while choosing an issue, this mistake can't be amended at a later stage [6].

Capital Punishment is right now drilled in 58 nations, including the USA, Japan, Belarus, Cuba, and Singapore. Starting at 2012, there are 97 abolitionist states. As indicated by Amnesty International, the most noticeably awful offenders in 2012 were China (1000+ deaths), Iran (314+) and Iraq (129+). The association affirmed 1, 722 death sentences and 682 executions (barring China) in 2012. In Europe nonetheless, it is currently a for all intents and purposes terminated marvel except for the Republic of Belarus. As indicated by an investigation, around 66% of the nations have either abolished capital punishment out and out or have not really executed any death sentences over the most recent ten years.

IV. DEATH SENTENCE CONFIRMING

The Code of Criminal Procedure, 1973 under Section 28(2), coordinates that a death sentence can be passed just by a Sessions judge or an extra session's judge. Further, the Code ensures that a sentence of death gone by a court of sessions (containing both of the Sessions or the Additional Sessions Judge) will be liable to confirmation proceedings under the steady gaze of the High Court practicing jurisdiction over it. Along these lines, it is protected to presume that the death sentence did by a Sessions court is provisory and is liable to the programmed direction of the significant High Court. Sections 366 to 371 of the Code layout the confirmation proceedings under the steady gaze of the High Court. It is intriguing to

take note of that comparative confirmation provisions were additionally found in the old criminal procedure code of 1898 from Sections 374 to 380. The Code likewise indicates that the confirmation proceedings ought to be led at any rate before a division seat of the High Court. Ought to there be any distinction of conclusion, the issue will be alluded to a third judge whose choice will decide the ultimate result of the case.

When the Sessions Court passes the death sentence, it is obliged to refer to the proceedings of the case to the High Court under Section 366(1) of the Code. Under Section 366(2) of the Code, a sentence of death can't be executed except if it is affirmed by the High Court. Rather than the 1898 Criminal Code, the 1973 Code incorporates an arrangement that approves the Sessions Court to send the indicted individual to legal guardianship. There is in any case, a crucial qualification between the confirmation proceedings at the High Court and a preliminary at the Sessions Court. While the Code, under Section 273, makes a general rule that all confirmations taken over the span of the preliminary will be taken within the sight of the accused, Section 367 states that the general rule in case of confirmation proceedings is that, except if the High Court feels generally, the nearness of the indicted individual isn't required notwithstanding when new proof is taken. The Supreme Court has proposed that the nearness or the nonattendance of the accused does not have any kind of effect at the confirmation stage since the High Courts are compelled by a solemn obligation to give the issues its most extreme and full focus. Here, it is pertinent to make reference to that under the appellate jurisdiction, the Code in Section 391(3), stipends the privilege to an accused (or his pleader) to be available when extra proof is taken [7].

As indicated by Section 368, the request of confirmation isn't given until the intrigue is arranged off by the high court. In death penalty cases, the typical practice is that the Sessions Court eludes the issue for confirmation to the High Court and also, the convict documents an intrigue on his conviction under Section 374(2) of the Code. It is additionally elucidated that there is no commitment on the convict that he should bid his conviction to the High Court. Regardless of whether he doesn't, the constitutional court is compelled by a solemn obligation to re-evaluate the death case.

V. JURISDICTION OF COURTS FOR DEATH PENALTY

As indicated by Article 21 of Indian Constitution – *“No person shall be deprived of his life or his personal liberty except according to procedure established by law”*

Different rules in India manage criminal law have set down provisions identifying with death penalty.

India being popularity based nation which ensures Human Rights to its residents, the discussion on capital punishment accumulated much warmth in present time. While the awarder of death sentence in *Bacchan Singh v. State of Punjab* Supreme Court (SC) held that capital punishment must be sentenced in severe murder case or in many appalling crimes where principle of rarest of uncommon case apply, however in a nation which use to advocate human rights how might it grant capital punishment as it is violation of essential human rights. In India Supreme Court, High Court and Sessions Court have the jurisdiction to execute death penalty. On the off chance that Session Court executes the death sentence, at that point it is liable to the confirmation from the High Court. After the honor of the death sentence is passed by a Sessions court, the sentence must be affirmed by a High Court to make it last. When affirmed, the denounced convict has the alternative of speaking to the Supreme Court. On the off chance that this is beyond the realm of imagination, or if the Supreme Court turns down the intrigue or won't hear the request, the denounced individual can present a 'benevolence appeal' to the President of India and the Governor of the State [8].

Social Council (UNESCO) in its resolution no. 15 of 1996 urged its part to cancel capital punishment and prescribe those nations that utilization to give capital punishment had a quick and fair trial to accuse. Article 5 of Universal Declaration of Human Rights, 1948 gives that no individual will be exposed to torment or to remorseless, inhuman or debasing treatment or punishment. In International Scenario of United Nation (UN) Assembly stated that there is a need of fair justice in capital punishment everywhere throughout the world. Procedure which must be pursued ought to be fair, just and sensible (UN Charter, 1948).

In India, Court of Session in the wake of passing a death sentence will present the proceedings to the High Court, and the sentence will not be executed except if it is affirmed by the High Court. In case the death sentence is affirmed, the Court of Session would issue a warrant in the endorsed structure to the officer responsible for the correctional facility for the best possible execution of the sentence. At the point when the death sentence has been executed, the officer executing it will restore the warrant to the Court of Session, with a support under his hand ensuring the way wherein the sentence has been executed. In a case On 5 March 2012 a session's court in Chandigarh requested the execution of Balwant Singh Rajoana, a sentenced psychological oppressor from Babbar Khalsa, for his inclusion in the assassination of Chief Minister of Punjab Beant Singh. The sentence was to be completed on 31st

March 2012 in Patiala Central Jail, yet the Center remained the execution on 28th March because of overall challenges by Sikhs that the execution was unfair and added up to a human rights violation. The Code of Criminal Procedure (1898) required the strategy for execution to hang. A similar strategy was received in the Code of Criminal Procedure (1973). Section 354(5) of the Criminal procedure peruses as "When any individual is sentenced to death, the sentence will coordinate that the individual be hanged by the neck till the individual is dead."

VI. PARDONING POWER

The Constitution of India says that the President will have the ability to allow pardons, respites, reprieves, or remissions of punishment or to suspend, dispatch or drive the sentence of any individual indicted for any offense. The Article 161 arrangements with the intensity of the Governor to concede pardons, and so forth, and to suspend, transmit or drive sentences in specific cases. The Governor of a State will have the ability to concede pardons, reprieves, respites or remissions of punishment or to suspend, dispatch or drive the sentence of any individual indicted for any offense against any law identifying with an issue to which the official intensity of the State expands. Along these lines, this Article empowers the Governors of States to give pardon, reprieves, respites or remissions of punishment or suspend, dispatch or drive the sentence of an individual indicted for an offense against a law identifying with an issue to which the official powers of the State expands. The President and the Governors are both bound by the exhortation of their council of priests under Articles 74 and 163 separately. The pardoning power is in criticism of the law. Inferring that if laws could generally be sanctioned and controlled so they would be simply in each situation to which they are connected, there would be no requirement for the pardoning power. Thusly, the ability to acquit is intended to be utilized in conditions where the death sentence given isn't in light of a legitimate concern for justice. The organization of justice by the Courts isn't really constantly astute or surely understanding of conditions, which may appropriately lighten guilt [9].

In India, the ability to concede pardon is given upon the President of India and the Governors of States under Articles 72 and 161 of the Constitution of India. The object of pardoning power is to address conceivable legal blunders, for no system of legal organization can be free from blemishes. It is a property of sovereignty wherever the sovereignty might be to discharge a convict from a sentence which is mixed up, unforgiving or unbalanced to the crime. The ability to acquit is one of the powers which have been presented on the official. Article 72 presents this power on the President and Article 161 does likewise on the Governor. This power has been given to heads of different nations. In monarchies this power is vested with the Kings of those nations

and it has been practiced for quite a long time, yet with the progression of time and the changing idea of constitutional law it has taken another structure now [10].

It is a check endowed to the Executive for special cases. The pardoning power is established on thought of open great and is to be practiced on the ground of open welfare, which is the authentic object everything being equal, will be also advanced by a suspension as by an execution of the sentences.

VII. LEADING CASES OF CAPITAL PUNISHMENTS AND COURT JUDGEMENTS

• Nathuram Godsey/ Narayan Apte Case (1949)

Gandhi was killed on January 30th, 1948, Nathuram Ease and Narayan Apte went to gallows on 15 November, 1949. It was one of the fastest trials in the legal history of that time. It is one of three trials which happened in the Red Fort in Delhi. A Special Court was constituted to conduct the trial of the accused and Shri Atma Charan Agrawal, I. C. S. was appointed as the Judge. Twelve persons were accused for different charges. Three of them were absconding. The nine produced before Shri Atma Charan on 27th May, 1948 and they were Nathuram Vinayal se, Narayan Dattatraya Apte, Vishnu Ramkrishna Karkare, Madanlal K. Pahwa, Shankar Kistaiya, Gopal Vinayak jse, Digambar Ramchandra Badge, Vinayal Damodar Savarkar, Dattatraya Sadashiv Parchure. There were three absconders as well; these were Gangadhar Dandavate, Gangadhar Jadhav, Suryadev Sharma. Digambar Badge turned approver.

The accused had engaged counsels. However, replies to the charges were to be given by the accused themselves, which they did. Before doing so, they submitted their written statements. Nathuram, in his written statement replied in detail the reasons of his decision to kill Gandhi. The prosecution had the knowledge of it before -hand. It raised an objection to the reading, which was over -ruled by the Judge. The statement was read out. The government banned the reproduction or publication of the statement on part or full. The motive on the part of the Government was very obvious. It is after about three decades that the statement reaches the public. Nathuram argued his own case and this was by his choice. He argued for two days without challenging his conviction under the murder charge.

The Judgment During the whole process the prosecution produced a total of 149 witnesses. The hearing was ended on 30th December, 1948 and the judgement was finally pronounced on 10th February, 1949. V.D. Savarkar was acquitted. Digamber Badge was granted pardon because he

deposed against his co -accused. Vishnu Karkare, Madanlal Pahwa, Gopal Elbe, Shanlcar Kistaiya and Dr. Parchure got the sentence of transportation for life. Nathuram sojse and Narayan Apte were sentenced to death.

- **Yakoob Memon Case (1993)**

Yakub Memon fled with his entire family on 10 March, 1993, two days before the Mumbai blasts which killed 257 people.

He reportedly met his family lawyer in Kathmandu in July 1994. Upon learning that he was unlikely to receive any mercy if he surrendered to Indian authorities, he prepared to leave for Karachi, where he had been living under house arrest for a year.

After being caught with multiple passports at the Kathmandu airport in July 1994, Yakub was officially arrested on the morning of 5 August 1994, inexplicably from the New Delhi railway station. Reports around the time say that Yakub had struck a deal with CBI and was expecting to be shown mercy during his trial.

Upon surrender, Yakub maintained that he was innocent and denied knowledge of the Mumbai blasts. In an interview with NewsTrack after Memon returned to India, he revealed that he only came to know about the conspiracy and the blasts after reaching Pakistan.

Memon filed an appeal before the Supreme Court of India under Section 19 of the TADA Act and State of Maharashtra filed a reference before the court for the confirmation of Memon's death sentence. On 21 March 2013, the Supreme Court confirmed Memon's conviction and death sentence for conspiracy through financing the attacks. The court held that Memon's role was limited not only to the extent of correspondence between the masterminds and all other accused, but he was also entrusted with task of handling the explosive bags and for their safe keeping, which is stated in the confessional statements of various co-accused persons. It also held that Memon was actively involved in hawala transactions for the purpose of facilitating the blasts. The judges called him the "mastermind" and "driving force" behind the bombings. Memon has consistently claimed innocence (FlorCruz, 2015).

Memon then filed a Review Petition seeking review of Supreme Court's judgment confirming his death sentence. On 30 July 2013, Supreme Court bench headed by Chief Justice P Sathasivam and Justice BS Chauhan rejected Memon's application for oral hearing and dismissed his review petition by circulation. Memon then filed a Writ Petition before the Supreme Court as the issue of oral hearing of review petitions against death sentences was being heard by the Supreme Court.

On 6 August 2013, Memon's brother Suleman filed a mercy petition before the President of India. However Indian President Pranab Mukherjee rejected Memon's petition for clemency on 11 April 2014.

Yakub was sentenced to death on 27 July, 2007 by Justice P. D. Kode of the Terrorist and Disruptive Activities (Prevention) Act (TADA) court. Memon was executed by hanging in Nagpur Central Jail at around 6:30 am IST on 30 July 2015, his 53rd birthday.

- **Afzal Guru Case (2001)**

The curious case of Afzal Guru has given rise to issues which lie more in the domain of jurisprudence than a purely legal one. The discussions on the nexus of terrorism and capital punishment have been recently revived by contemporary research exploration and scholarship. The curious aspect of this study is how this intersection is dictated by the interplay of the socio-political relations among and within states.

The morality and jurisprudential and legal validity and correctness of death penalty and doesn't aim to initiate another abolitionist vs. retentionist debate. Working on the premise that death penalty is, in substance, correct; the authors enter debates based on whether or not what happened in the case of *State (N.C.T. of Delhi) v. Navjot Sandhu @ Afsan Guru* (2005) was in keeping with due process and in furtherance of the rule of law, therefore.

Afzal Guru in his clemency petition to the then President of India, A P J Abdul Kalam had stated that the all crucial witnesses in the case have not been cross examined and a close reading of the court records clarifies and establishes this. This is a gross violation of all standards of fair trial. Even though, Afzal was accused of a 'terrorist offence' that doesn't take away his right to fair trial which is a constitutionally guaranteed right. In *Nirmal Singh Kahlon v. State of Punjab* (2009) the court has held that right to fair trial includes fair investigation. Further, the Supreme Court upheld the death penalty given by the high court and the trial court on the basis of evidence which was circumstantial. At the trial stage, Afzal wrote to the judge requesting a competent senior advocate and suggested four names. The judge appointed a lawyer for Afzal, who later withdrew and the court appointed the lawyer to assist the court (as against defending Afzal). Afzal's trial then proceeded without a defence lawyer (Gonsalves, 2006).

India carried out one execution on 9 February, when Mohammad Afzal Guru was hanged in secret at Tihar Jail in New Delhi. He had been sentenced to death in 2002 after being convicted of conspiracy to attack the Parliament of India, waging war against India and murder in December

2001 by a special court designated under the Prevention of Terrorism Act (POTA), a law which fell considerably short of international fair trial standards and has since been repealed. Afzal Guru's death sentence was confirmed by the Supreme Court in August 2005, and his mercy petition was rejected by the President on 3 February 2013.

Serious concerns about the fairness of Afzal Guru's trial – including the fact that he did not receive legal representation of his choice or a lawyer with adequate experience at the trial stage – were not addressed. Afzal Guru's family were not informed in time of his imminent execution and his body was not returned to the family for last rites and burial, in violation of Death sentences and executions in 2013 international standards. Afzal Guru was also denied the opportunity to seek a judicial review of the decision to reject his mercy petition (Live Law News Network, 2014).

• **Kasab (2008)**

Mohammad Ajmal Amir Kasab was a member of the Lashkar-e-Taiba (LeT), the terrorist organization involved in the 2008 Parliament attack (. Having gone through the basic combat training and terror methodology of LeT (*Daura Aam*), he also underwent the advanced training camp in the Khyber-Pakhtunwaala region called *Daura Khaas*, and finally the *Fedayeen* training. The targets of the *Fedayeen* squad that Kasab was part of were the Taj Mahal Palace & Tower, the Oberoi Trident, Nariman House, and Chhatrapati Shivaji Terminus. Kasab was the lone attacker captured alive in the attacks, which killed 166 people.

The attackers left Karachi in a boat, travelled for 48 hours, hijacked an Indian trawler *MV Kuber* and subsequently used inflatable boats to land at Colaba. The group split, and Kasab and his accomplice Abu Ismail Khan first attacked the Chhatrapati Shivaji terminus, and then went on to kill Maharashtra ATS Chief Hemant Karkare, officer Ashok Kamte and ACP Ashok Kamte. Abu Ismail was later killed and Kasab captured when the car they were travelling in was ambushed by the police. The duo had constantly been in touch with their (suspected ISI and Lashkar men) handlers in Karachi through Swiss made Garmin GPS systems. It was later verified that Kasab hailed from Faridkot village in Pakistan (Faridkot is also a district in Punjab, India).

Kasab's trial took place in a high security special Court set up in Arthur Road Jail (Mumbai Central Prison), the largest and oldest prison in Mumbai. ML Tahaliyani was appointed the 26/11 special Judge, and Ujjwal Nikam the Special Public Prosecutor. Initially, Advocate Anjali Waghmare was appointed as his lawyer, but was replaced on grounds of 'professional misconduct' having earlier accepted a prime witness's case brief. She was replaced by Advocate SG Abbas Kazmi, who was assisted by Mr.

KP Pawar. After the framing of charges, Kasab was charged on 86 counts (the prosecution had initially asked for him to be charged with 312), all of which he denied. Advocate Kazmi too was later dismissed for 'not cooperating with the Court in the interest of justice' (Mohammed, 2012).

Kasab was sentenced to death by the Special Court on five counts of murder (S.302 IPC), conspiracy to commit murder (S.120B IPC), waging war against the country, abetting murder and committing terrorist activities under the Unlawful Activities Prevention Act. The death sentence was upheld by the Bombay High Court, and subsequently by a Supreme Court bench comprising of justices Aftab Alam and CK Prahlaad. His mercy plea was rejected by President Pranab Mukherjee in December 2012. Around 19th November, Mohammad Ajmal Amir Kasab was secretly shifted to Pune's Yerwada jail and later hanged to death, Operation X, as it was called, was carried out under the aegis of the Home Ministry. This was the first death sentence carried out in India since 2004, when Dhananjay Chatterjee, who had been convicted for rape and murder, was executed in Alipore Central Jail, Calcutta (Mohammed, 2012).

• **Shabnam Case (2008)**

On 27 May 2015, Supreme Court quashed the warrants for execution of death sentence awarded to an Amroha couple – Shabnam and Saleem who have been convicted in a 2010-case involving murder of seven family members of Shabnam.

On 15 May 2015, a three-judge bench of the Supreme Court headed by CJI HL Dattu had dismissed the appeal filed by the duo and had affirmed the confirmation of death sentences by the Allahabad High Court. Subsequently on 21 May 2015, merely six days later, Sessions Judge of Amroha issued the execution warrant of capital punishment. It is pertinent to note that under the Supreme Court Rules, 2013, a review petition can be filed against any judgment or order within 30 days of such order.

This is a case of parricide (killing of parents or relatives). Facts of the case are that Shabnam and Saleem were residents of same village in Amroha district of UP. Shabnam was educated and employed while Saleem was uneducated and unemployed. Despite having compatibility issues Shabnam and Saleem started loving each other, developed closest intimacy and wanted to marry as "... love is blind and lovers cannot see" [The Merchant of Venice, 1596-Shakespeare]. The family members of Shabnam, however, were against their relationship. The shadow of customary practices, pseudo prestige and (may be concerned with a better future of daughter) they were too blind to see the fast changing face of Indian society brought by silent revolution of

information technology. The accused/ offenders felt that the family members would not allow them to update their status from temporary impermissible relationship into a permanent, permissible relationship. The love birds found them in "a land full of thorns and weeds", where there was no space in which their love seed could grow and groom. Respectable feelings for family members were replaced by rival feelings culminating into revenge. They planned to permanently weed out their devils with a deadly deed of killing the family thinking 'all is fair in love.' Saleem managed to acquire some Biopose sedative tablets (sleeping pills). He handed ten such intoxicating tablets to Shabnam, which she administered to her family members in tea on 14/15.04.2008 night. The family members became unconscious. "Saleem reached her house with the murder weapon" [axe]. "Shabnam held the heads of her six family members; Saleem kept cutting their necks one-by-one." Shabnam has "herself throttled the seventh member who was an infant, nine month old". The session's court and the high court convicted both of them for murder and sentenced to death. In the Supreme Court the issue regarding conviction was never raised by any lawyer though the court mentioned that the accused disputed their conviction. An amicus curae "limited his submissions only to the question of sentence" i.e. whether the death sentence punishment was appropriate or not.

VIII. CONCLUSION

Capital Punishment is a legal death penalty in India. India gives capital punishment for genuine offenses. In India capital punishment is granted for most appalling and deplorable offense. Legislature has ordered numerous laws likewise number of kinds of punishment so that from the dread of punishment one doesn't carry out crime. The most savour punishment use to grant is Capital Punishment. The idea of capital punishment is an old one which uses to establish in practically all societies of society. Capital punishment in antiquated time use to give on typical errors against society. As per the Indian Constitution, the State Governor and the President of India both have the ability to suspend, exoneration, or drive or dispatch death sentences. Life imprisonment is another to capital punishment. Life imprisonment is a similarly strong option in contrast to death penalty, among others; in light of the way that in a progression of judgments the Supreme Court has cleared up that "imprisonment forever" signifies "imprisonment for the entire of the rest of the time of the indicted individual's natural life" subject to reduction by the fitting government. Commutation of death sentence into life imprisonment remains the staggering national alternative for India.

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