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HRPL010037622020



Presented on : 13-10-2020
Registered on : 13-10-2020.

IN THE COURT OF PRASHANT RANA,
ADDITIONAL SESSIONS JUDGE, PALWAL.

Sessions Case Number	166 of 13.10.2020.
CNR Number	HRPL01-003762-2020.
CIS Number	SC-225-2020.
UID Number	HR0195.
Date of Order	07.06.2023.

State	Versus	1. Ajay son of Mahesh, aged 21years, Profession-Student, resident of village P, Police Station Hodal, District Palwal.
		2. Parasottam @ Parasoti son of Ram Kishan, aged about 27 years, Profession- Labourer, resident of village P, Police Station Hodal, District Palwal.

.....Convicts.

FIR No. 323 of 25.08.2020.
Under Sections: 364, 302, 201, 34 of
IPC & Section 6 of The POCSO Act.
Police Station: Hodal, Palwal.

Present : Sh. Harkesh Kumar, Learned Special Public Prosecutor
assisted by Sh. S.C. Chauhan, Advocate, Learned Counsel
for Complainant.
Sh. Ram Rattan Malik, Advocate, Learned Defence

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Counsel.
Sh. N.S. Parmar, Advocate, Learned Defence Counsel.
Convicts Ajay and Parasottam @ Parasoti in custody.

ORDER:

Today, the case was fixed for hearing the convicts on the quantum of sentence. Statement of convicts on the quantum of sentence, separately recorded. The convicts do not wish to lead any evidence on quantum of sentence. The convicts have further stated that they have old aged parents and family members, to look after. They are of insufficient means. They have no criminal antecedents. They are not previous convicts. A lenient view may be taken while granting punishment to them.

2. Arguments on the quantum of sentence heard.

3. It has been submitted by the Learned Special Public Prosecutor assisted by Learned Counsel for Complainant that the disability certificates and ration-card of the family members of the victim, have been placed on record as Annexure-I. All the family members of the victim are specially-abled. Both the parents are physically specially-abled. The mother of the victim is deaf and dumb too. Also, the 2 siblings of the victim are deaf and dumb. The family is a BPL family i.e. they are below the poverty line. The victim was 9 years 8 months old, at the time of her

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gang-rape and murder by the convicts. She was deaf and dumb and also intellectually disabled. She suffered from multiple injuries, including fracture of neck and complete damage of the private parts. In view of the brutal nature of the crime, the present case belongs to the category of, rarest of rare. Death sentence is the only befitting punishment for the convicts. In this regard reliance has been placed on **Mithu v. State of Punjab 1983(1) RCR (Criminal) 557 (SC)**, **Bantu v. The State of U.P. 2008(3) RCR (Criminal) 909 (SC)**, **Mukesh & Anr. v. State for NCT of Delhi & Ors. 2017(5) Scale 506 (SC)** and **Bachan Singh v. State of Punjab 1982(3) SCC 24 (SC)**. In view of the grave nature of the crime, the convicts be granted death penalty, as life imprisonment would an inadequate sentence.

4. Rebutting the above-said arguments, the Learned Defence Counsels, submitted that the present case does not fall in the category of the rarest of the rare. The case is entirely based on circumstantial evidence. There is no direct evidence against the convicts. Convict Parasottam has already been abandoned by his family. Nobody from his family came to meet him in the prison, for the last 3 years. Convict Ajay is very young in age. He is only 19 years of age. Both the convicts have no criminal antecedents. They must be given a chance to reform

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themselves. In these circumstance, they be granted the minimum prescribed punishment. With these submissions, it was prayed that a lenient view may be taken while granting punishment to the convicts.

5. I have heard the Learned Public Prosecutor assisted by Learned Counsel for Complainant and the Learned Counsels for convicts and perused the documents carefully.

6. As per the guiding principles on sentencing, as laid down by The Hon'ble Supreme Court of India in **Bachan Singh v. State of Punjab 1982(3) SCC 24 (SC)** and **Machhi Singh and Others v. State of Punjab 1983 AIR 957 (SC)**, the extreme punishment of death sentence is given only in cases of extreme culpability and where life imprisonment appears to be an altogether inadequate punishment in regard to the relevant circumstances of the crime, the criminal and the offender. Also, it is to be kept in mind that the death sentence is given in the rarest of the rare cases. Life imprisonment is the rule and the death penalty is an exception. Also, a balance sheet is to drawn of the aggravating and mitigating circumstances and the mitigating circumstances must be given the due weightage.

7. The mitigating circumstances in the present case are as under.

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- (1) The convicts are not previous convicts and they have no criminal antecedents, as per record.
- (2) The convict Parasottam is married and has a daughter. The convict Ajay is a Bachelor and has parents and siblings.
- (3) Both the convicts are young in age i.e. the convict Parasottam is around 27 years of age. The convict Ajay is aged 20-22 years. He was above the age 18 years and below the age of 20 years, at the time of the incident, as per the ossification test report of the medical board. It is pertinent to mention that the said findings were given by the Learned ASJ (Fast Track), Special Court, POCSO, Palwal, vide order dated 27.01.2021, after recording of evidence led by the prosecution as well as defence, including the evidence of the board of Doctors, since the school leaving certificate of the convict was found to be without any basis. As per law laid down by The Hon'ble Supreme Court of India in **Ashwani Kumar v. State of M.P., AIR 2013 (SC) 593**, where the Court has passed an order in regard to the age of the applicant claiming juvenility, after following the due procedure of law, that order shall be the conclusive proof of the age and no further inquiry shall be conducted by the Court. As per order

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dated 27.01.2021 of Learned ASJ, Palwal, the convict Ajay was major, at the time of the commission of offence. Hence, this plea cannot be reagitated at this stage, of quantum of sentence. Self-serving statements of the convict would be of no consequence in view of the order dated 27.01.2021 of the Court. The order dated 27.01.2021 would be held to be conclusive proof of age of the convict, as per the law laid down in **Ashwani Kumar's case (supra)**. Though, both the convicts are young in age, however both were adults at the time of commission of offences by them. They were not juveniles.

- (4) The convicts belong to a marginalized and depraved section of the society. They are of limited means.

8. On the other hand, the aggravating circumstances in the present case are as under.

- (1) The convicts committed gang-rape and brutal murder of a girl child, aged 9 years and 8 months.
- (2) The victim was deaf and dumb.
- (3) The victim also suffered from intellectual disability.
- (4) The father of the victim, aged 43 years, is physically

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specialty-abled to the extent of 86%. He suffers from post polio-paralysis. His right leg does not work. He is working as a labourer.

- (5) The mother of the victim, aged 29 years, is also deaf and dumb. She is also physically specialty-abled and suffers from locomotive disability of one leg. Also, she suffers from intellectual disability. She is a housewife.
- (6) Younger sister of the victim, aged 11 years, is also deaf and dumb.
- (7) Younger brother of the victim aged 6 years, is also deaf and dumb.
- (8) The family of the victim is BPL ie Below Poverty Line. They are struggling to make both ends meet.
- (9) The manner of commission of crime was extremely brutal and barbaric. The convicts repeatedly raped the victim after tying her hands with a *Saafi*. She got unconscious, after being raped for 3 times . Subsequently, both the convicts lightened 2 *Beedis*, and then burnt her eyes. Each covict used 1 lightened *Beedi* to burn the eyes of victim. Subsequent to that, they strangulated and smothered her to death i.e. her neck was strangulated, and her mouth and nose,were pressed

brutally. The victim expired on the spot. Her body kept lying in the field for that day and the entire night. It was discovered on the next day, when maggots were crawling over her face and body. The victim had injuries of bites on her cheeks. There were multiple contusions on her face. There was swelling on her head. There were multiple contusions on her left arm. The thyroid cartilage in the neck, was fractured. There was complete perineal tear, extending from vagina to rectum, which reflects the bestiality committed by the convicts on the victim.

(10) The victim was helpless and vulnerable. She trusted the convicts as both of them were her neighbours and were like uncles or elders to her. One of the convicts gave her Rs.20 to buy guavas from a garden. In the midway she was captured by them and taken inside a dense *Jawaar* field, where she was gang-raped and brutally killed.

(11) The victim and her family had not done any offence against the convicts. There was no motive for them to commit the barbaric acts, except for their carnal and mental perversions.

(12) The convicts tried to escape the consequences of their acts by hiding their clothes and trying to abscond.

(13) The convict never showed any guilty or remorse on account of their barbaric deeds. Right from the inception of the investigation, till the conclusion of the trial. Rather, they have been giving false explanations and false defences, of blind gang-rape and murder, and false implication.

9. On comparison of the aggravating and the mitigating circumstances of the present case, the aggravating circumstances totally outweigh the mitigating circumstances.

10. The victim and her family members belonged to a marginalized and underprivileged section of the society. When the victim was found lying in the field, her eyes were burnt and tongue was protruding out. Maggots were crawling over her body, which had been defiled by the convicts. The victim was yet to see adolescence and youth of life. She was a child and a student of 5th class.

11. Every life has equal sanctity irrespective of the nation, race, religion, caste, gender and age and the crime of rape is the most serious crime. It becomes yet graver when it is the gang-rape of a minor child, and it is gravest when the child is murdered, after gang-rape.

12. Considering the case from the parameters laid down in **Machi Singh's case (supra)**, the manner of commission of the murders was extremely diabolical, brutal, grotesque and revolting, so as to arouse, extreme indignation of the community. The motive for which the murder was committed evinces totally depravity and meanness. The victim was an innocent child, who could not have provided even an excuse, much less provocation, for murder. The convicts were in a position of domination and trust and over the victim, they being her neighbours and like uncles and elders to her.

13. It has been submitted on behalf of convicts that the case is based on circumstantial evidence and not direct evidence. The said contention is without any merits. The case is based on scientific evidence, including forensic reports and DNA reports, which clearly implicate the convicts. Also it has been contended that the convicts are young in age. The convict Ajay is aged around 21-22 years and convict Parasottam is aged around 27 years. However, it is also to be seen that victim was aged 9 years and 8 months only. Hence, the age of the convicts does not mitigate their culpability. Both of them were adults at the time, when they committed the crime. They cannot be treated as Juveniles on account of their young age. Both had attained majority. It has also been submitted on

behalf of the convicts that they must be given a chance of reforming themselves. However, the bestial manner in which they have committed the crime, shows that they may be a perpetual threat to the society. There is no reason to believe that such like offenders would be reformed and would refrain from repeating the crime.

14. In the United Nations General Assembly in 1989, the United Nations Convention on the Rights of the Child [UNCRC] was adopted. The Convention defines guidelines to create a better world for children. It includes; Right to Education, the Right to Protection from Mental or Physical Abuse, Protection from Rape or Sexual Exploitation, the Right to Rest and Leisure, and other essential rights for children. The UN Convention on the Rights of the Child (UNCRC) is the most complete statement of children's rights ever made. It is most widely-ratified international human rights treaty, in the history of world. It has been ratified by 196 countries. India has ratified the convention on 11.12.1992, and our Nation is committed to the core principles of the convention, which includes survival and protection of Children. Hence, adequate punishment must be granted to the offenders against children, to safeguard the right of survival and protection, of children.

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15. The offence of rape and murder is a blatant violation of Article 21, which has been aptly called, the Heart of Fundamental Rights i.e. Right to Life and Liberty. The Right to Life is not only the right to survive. It also includes the right to live with dignity. The convicts have callously deprived the victim of this fundamental right which was guaranteed to her, by The Constitution of India, the soul of our democracy.

16. In view of the above discussion, the case falls in the category of the rarest of the rare. It is the considered opinion of this Court that, apart from considering the rarest of the rare test, crime test and criminal test, there should also be tests of legislative intent and the trauma caused to the family of the victim.

17. In regard to the legislative intent test and the test of trauma caused to the family of the victim, it has been held in **Ravi v. State of Maharashtra, 2019 SCC Online 1288 (SC)**, (in the Dissenting verdict of **Hon'ble Mr. Justice Suryakant**, while upholding capital punishment),

“50. It is noteworthy that the object and purpose of determining quantum of sentence has to be ‘society centric’ without being

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influenced by a 'judge's' own views, for society is the biggest stake holder in the administration of criminal justice system. A civic society has a 'fundamental' and 'human' right to live free from any kind of psycho fear, threat, danger or insecurity at the hands of anti-social elements. The society legitimately expects the Courts to apply doctrine of proportionality and impose suitable and deterrent punishment that commensurate(s) with the gravity of offence.

51. Equally important is the stand-point of a 'victim' which includes his/her guardian or legal heirs as defined in Section 2(wa), Cr.P.C. For long, the criminal law had been viewed on a dimensional plane wherein the Courts were required to adjudicate between the accused and the State. The 'victim'- the de facto sufferer of a crime had no say in the adjudicatory process and was made to sit outside the court as a mute spectator. The ethos of criminal justice dispensation to prevent and punish 'crime' would surreptitiously turn its back on the 'victim' of such crime whose cries went unheard for centuries in the long corridors of the conventional apparatus. A few limited rights, including to participate in the trial have now been bestowed on a 'victim' in India by the Act No. 5 of 2009 whereby some pragmatic changes in Cr.P.C. have been made.

52. The Sentencing Policy, therefore, needs to strike a balance between the two sides and count upon the twin test of (i) deterrent

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effect, or (ii) complete reformation for integration of the offender in civil society. Where the Court is satisfied that there is no possibility of reforming the offender, the punishments before all things, must be befitting the nature of crime and deterrent with an explicit aim to make an example out of the evil-doer and a warning to those who are still innocent. There is no gainsaying that the punishment is a reflection of societal morals. The subsistence of capital punishment proves that there are certain acts which the society so essentially abhors that they justify the taking of most crucial of the rights – the right to life.....

....57. It is equally apt at this stage to refer the recent amendments carried out by Parliament in the Protection of Children from Sexual Offences Act, 2012 by way of The Protection of Children from Sexual Offences (Amendment) Act, 2019 as notified on 6th August, 2019. The unamended Act defines “Aggravated Penetrative Sexual Assault” in Section 5, which included, “whoever commits aggravated penetrative sexual assault on a child below the age of 12 years.” Originally, the punishment for an aggravated sexual assault was rigorous imprisonment for a term not less than 10-years but which may extend for imprisonment for life with fine.

58. The recent amendment in Section 6 of 2012 Act has substituted the punishment as follows:-

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“Post the Amendment, Section 6 has been substituted as follows:-

"6. (1) Whoever commits aggravated penetrative sexual assault shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine, or with death. (2) The fine imposed under sub-section (1) shall be just and reasonable and paid to the victim to meet the medical expenses and rehabilitation of such victim."

[Emphasis applied]

59. The minimum sentence for an aggravated penetrative sexual assault has been thus increased from 10 years to 20 years and imprisonment for life has now been expressly stated to be imprisonment for natural life of the person. Significantly, 'death sentence' has also been introduced as a penalty for the offence of aggravated penetrative sexual assault on a child below 12 years.

60. The Legislature has impliedly distanced itself from the propounders of “No-Death Sentence” in “No Circumstances” theory and has re-stated the will of the people that in the cases of brutal rape of minor children below the age of 12 years without murder of the victim, 'death

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penalty' can also be imposed. In the Statement of Objects and Reasons of amendment, Parliament has shown its concern of the fact that "in recent past incidents of child sexual abuse cases administering the inhuman mindset of the accused, who have been barbaric in their approach to young victim, is rising in the country." If the Parliament, armed with adequate facts and figures, has decided to introduce capital punishment for the offence of sexual abuse of a child, the Court hitherto will bear in mind the latest Legislative Policy even though it has no applicability in a case where the offence was committed prior thereto. The judicial precedents rendered before the recent amendment came into force, therefore, ought to be viewed with a purposive approach so that the legislative and judicial approaches are well harmonised.

61. In the light of above discussion, we are of the considered opinion that sentencing in this case has to be judged keeping in view the parameters originating from Bachan Singh and Machhi Singh cases and which have since been strengthened, explained, distinguished or followed in a catena of subsequent decisions, some of which have been cited above. Having said that, it may be seen that the victim was barely a two-year old baby whom the appellant kidnapped and apparently kept on assaulting over 4-5 hours till she breathed her last. The appellant who had no control over his carnal desires surpassed all natural, social and legal limits just to

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satiates his sexual hunger. He ruthlessly finished a life which was yet to bloom. The appellant instead of showing fatherly love, affection and protection to the child against the evils of the society, rather made her the victim of lust. It's a case where trust has been betrayed and social values are impaired. The unnatural sex with a two-year old toddler exhibits a dirty and perverted mind, showcasing a horrifying tale of brutality. The appellant meticulously executed his nefarious design by locking one door of his house from the outside and bolting the other one from the inside so as to deceive people into believing that nobody was inside. The appellant was thus in his full senses while he indulged in this senseless act. Appellant has not shown any remorse or repentance for the gory crime, rather he opted to remain silent in his 313 Cr.P.C. statement. His deliberate, well-designed silence with a standard defence of 'false' accusation reveals his lack of kindness or compassion and leads to believe that he can never be reformed. That being so, this Court cannot write off the capital punishment so long as it is inscribed in the statute book."

18. It was held by The Hon'ble Supreme Court of India in **Madan Gopal Kakkad v. Naval Dubey and Anr. 1992 SCR (2) 921 (SC)**, while granting death sentence to a convict, who committed rape of an 8 years old girl child.

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"JUSTICE DEMANDS, THE COURT AWARDS"

“Before parting with the judgment, with deep concern, we may point out that though all sexual assaults on female children are not reported and do not come to light yet there is an alarming and shocking increase of sexual offences committed on children. This is due to the reasons that children are ignorant of the act of rape and are not able to offer resistance and become easy prey for lusty brutes who display the unscrupulous, deceitful and insidious art of luring female children and young girls. Therefore, such offenders who are menace to the civilised society should be mercilessly and inexorably punished in the severest terms.

We feel that Judges who bear the Sword of Justice should not hesitate to use that sword with the utmost severity, to the full and to the end if the gravity of the offences so demand.”

19. While upholding Capital Punishment, in a similar case of rape and murder of a minor girl, it was held by The Hon'ble Supreme Court of India, in **Vasant Sampat Dupare v. State of Maharashtra, (2017) 6 SCC 631 (SC)** that,

“ 58. In the case at hand, as we find, not only the rape was committed in a brutal manner but murder was also committed in a

barbaric manner. The rape of a minor girl child is nothing but a monstrous burial of her dignity in the darkness. It is a crime against the holy body of a girl child and the soul of the society and such a crime is aggravated by the manner in which it has been committed. The nature of the crime and the manner in which it has been committed speaks about its uncommonness. The crime speaks of depravity, degradation and uncommonality. It is diabolical and barbaric. The crime was committed in an inhuman manner. Indubitably, these go a long way to establish the aggravating circumstances.

60.A helpless and defenceless child gets raped and murdered because of the acquaintance of the appellant with the people of the society. This is not only betrayal of an individual trust but destruction and devastation of social trust. It is perversity in its enormity. It irrefragably invites the extreme abhorrence and indignation of the collective. It is an anathema to the social balance. In our view, it meets the test of rarest of the rare case and we unhesitatingly so hold.”

20. In the present case the convicts have acted in a most conniving and treacherous manner. They have betrayed the trust of a minor girl child, aged 9 years 8 months. She trusted them, being her elders of close neighbourhood. She was intellectually disabled, deaf and

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dumb. The convicts took all care to commit the barbaric acts of gang rape and murder of the child, in extreme secrecy, and in a preplanned and cold-blooded manner. The crime was committed in the middle of a dense *Jawaar* field, outside the village. It was deliberately committed with a deaf and dumb minor girl, as she cannot speak the name of the offenders. Then her eyes were burnt after that, so that she is unable to identify them as offenders. Still, the convicts had doubts, that she might somehow convey their identities, so they strangled and smothered her to death. The barbaric crime was done in such a manner, that nobody ever catches hold of them. However the evidence has established the guilt of the convicts without any pale of doubt, by way of DNA reports, blood reports and forensic reports. The semen of convict ajay was found on the body of victim and his DNA profile matched with the same. The clothes of the convict Parasottam were smeared with blood of victim. It was aptly said by the great poet, **Iqbaal Azeem (1913-2000)** that,

“Qatil ne kis safai se dhoi hai aasteen

Usko khabar nahi ki lahu bolta bhi hai”

(Murderer may wash blood, off his hands,

Yet, someday the blood will speak for itself)

21. Impliedly, crimes and criminals do not remain undetected forever. One day or other, they are detected and adequately punished too.

22. It is pertinent to mention that there were innumerable silent cries in the present case. There were silent cries of the 10 year old, deaf and dumb victim, while she was being brutally gang-raped in a day time in a field near her home and village. She also suffered from intellectual disability. There were her silent cries, when her eyes were burnt with *Beedis*, after she was gang-raped. There were her silent cries, when she was strangulated and smothered to death. Apart from the extreme fear and pain felt by the victim, she was not unable to understand, what was happening with her and why life has become such brutal to her, within a few moments. Also, there have been innumerable silent cries of the deaf and dumb, and intellectually disabled, mother of the victim, her 2 deaf and dumb siblings, and the paralytic father of the victim, for the last 3 years. The mother could not have even wailed at the last rites of her daughter, whom she bore in her womb for 9 months and then fed and nursed her with utmost love and affection for 10 years. She dreamt of seeing her marriage, someday. The plight of the paralytic father is same, as daughters are most dear to a father. The victim's family is yet unable understand as to why the dear daughter of their family was subjected to

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such barbarism and bestiality and why she was brutally snatched away from them, forever. It is pertinent to mention that, since the victim was deaf and dumb, The Deaf & Dumb Welfare Association of Palwal, the Deaf & Dumb Associations in the country and other concerned NGOs organised protests across the Nation, on account of the barbaric incident, which took place in this case. They also pursued the investigation and requested the Authorities for speedy justice. There are letters on the case file, in this regard. Human ears may have not listened to these silent cries, but the cosmic intelligence always listens to these cries, and does complete justice, when the time arrives for it. The time has come that the convicts are given "Just Desert" for their actions. It has been aptly written by the American poet, **Henry Wadsworth Longfellow(1807-1882)** that,

**“Though the mills of God grind slowly,
yet they grind exceeding small;
Though with patience He stands waiting,
with exactness grinds He all.”**

23. In view of the legislative intent of the amendment in the POCSO Act and the case law laid down in **Machhi Singh's case (supra)**, **Bachan Singh's case (supra)** and **Ravi's case (supra)**, **Madan Gopal Kakkad's case(supra)** and **Vasant Sampat Dupare's case(supra)**, anything

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less than death sentence would be unjustified in the peculiar circumstances of the present case. There is no reason to believe that the convicts would be reformed and would not be a menace to the society. They do not deserve any mercy.

24. The Courts of law hereby warn the potential offenders, who may plan to perpetrate such like offences in future, that in case they commit such an offence with the children of the society, they would be signing their own death warrants. The Courts of law would simply execute those death warrants.

25. For the reasons recorded above, convict Ajay son of Mahesh, resident of village **P**, Police Station Hodal, District Palwal and convict Parasottam son of Ram Kishan, resident of village **P**, Police Station Hodal, District Palwal, are hereby sentenced to death for offence punishable under Section 302 of IPC read with Section 34 of IPC, and also with a fine of Rs.5,000 each. **They shall be hanged by neck till they are dead, subject to the confirmation of the sentence by The Hon'ble High Court of Punjab and Haryana, Chandigarh.**

26. Also, convict Ajay son of Mahesh, resident of village **P**,

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Police Station Hodal, District Palwal and convict Parasottam son of Ram Kishan, resident of village P, Police Station Hodal, District Palwal, are hereby sentenced to death for commission of offence punishable Section 6 of The POCSO Act read with Section 34 of IPC, and also with a fine of Rs.5,000 each. **They shall be hanged by neck till they are dead, subject to the confirmation of the sentence by The Hon'ble High Court of Punjab and Haryana, Chandigarh.**

27. For other offences, the convicts are hereby sentenced to undergo imprisonment and pay fine as under:

Offence	Sentence
Under Section 364 Indian Penal Code, 1860 read with Section 34 Indian Penal Code, 1860.	Imprisonment for life and fine of Rs.5,000 each. In default of payment of fine, the convicts shall further undergo Simple Imprisonment for a period of One Year.
Under Section 201 Indian Penal Code, 1860 read with Section 34 Indian Penal Code, 1860.	Rigorous Imprisonment for Seven years and fine of Rs.5,000,each. In default of payment of fine, the convicts shall further undergo simple Imprisonment for a period of One Year.

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28. All the sentences shall run concurrently, till the confirmation of the death sentences by The Hon'ble High Court of Punjab and Haryana, Chandigarh. The period for which the convicts have already remained in custody during the trial, shall be set off from the substantive sentence. The sentences in default of payment of fine shall run after the substantive sentence. The convicts have been informed that they can file an appeal before The Hon'ble High Court of Punjab and Haryana, Chandigarh, within a period of 30 days, as per the Article 115 of The Limitation Act, 1963. A certified copy of the judgment and order be given to the convicts, free of costs.

29. The convicts be confined in safe custody in District Jail, Faridabad under Warrants of conviction as per Section 366(2) Cr.PC, in Form No.40, till the confirmation of the death sentences or further orders from The Hon'ble High Court of Punjab and Haryana, Chandigarh. In this regard separate warrants be prepared and convicts be sent to District Jail, Faridabad. **On their warrants, a note be mentioned that they shall be hanged by neck, till they are dead, only after confirmation by The Hon'ble High Court of Punjab and Haryana, Chandigarh.**

30. The complete particulars of the convicts be mentioned on the Jail Warrants, as the name of the village has been withheld in the Judgment and this order, since victim belonged to the same village.

31. All concerned to note that the name, parentage and village etc. identification particulars of the victim, are not to be disclosed, reported or published, or made public in any manner, considering the dignity of the deceased victim, and also as mandated by law.

32. The case property i.e. clothes of the deceased and the accused, swabs, slides, blood-stained mud and the *Beedi* butt, be destroyed, after the expiry of the period of the appeal and in case of appeal, as per the directions of The Hon'ble Appellate Court. The personal belongings of the convicts, if any, be released to their legal heirs by the SHO concerned, after the expiry of the period of appeal/revision, if any.

33. The entire record of the case along with the duly sealed electronic evidence be submitted before The Hon'ble High Court of Punjab and Haryana, Chandigarh, for confirmation of death sentence

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under Section 366(1) Cr.PC. In this regard, a request letter along with the record is being sent to The Hon'ble High Court of Punjab and Haryana, Chandigarh. A copy of the entire record be retained for future records.

34. A copy of this order be sent to the Learned Chief Judicial Magistrate cum Secretary, District Legal Services Authority, Palwal who shall pay compensation to the legal heirs of the victim i.e. her parents and 3 siblings, as per the provisions of Haryana Victim Compensation Scheme, 2020 read with Section 357-A of the Code of Criminal Procedure, 1973.

35. The victim was 10 years old girl child. She was subjected to gang aggravated penetrative sexual assault and was murdered. Untold pain and suffering and mental trauma has been caused to the victim as well as her family members. The legal heirs of the victim deserve to be granted maximum compensation, as per The Victim Compensation Scheme, 2020. The victim is survived by her parents and 3 siblings. As per Section 9(3) of The Victim Compensation Scheme, 2020, read with schedule-I (Serial Nos.1&2), appended with the scheme, minimum compensation in the present case of aggravated penetrative sexual assault

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and murder would be Rs. 15 lacs and the maximum compensation would be Rs. 30 lacs. In the peculiar circumstances of the present case, as detailed above, this Court deems it appropriate that Rs.30 lacs be granted to the dependents of the victim as final compensation. Rs.7,50,000 has already been granted to the family of victim, as interim compensation. Remaining Rs.22,50,000 be disbursed to the parents of the victim, in equal proportion ie Rs 11,25,000, to each parent. The amounts be disbursed to the parents of the victim, by the Learned Chief Judicial Magistrate, District Legal Services Authority, Palwal, out of the Women Victims Compensation Fund, in the bank account of the parents of the victim, as per rules, at the earliest.

36. A copy of this order be forwarded to the Investigating Officer/SHO concerned. A copy of this order be supplied to the legal heirs of the victim, free of cost.

37. **Fine not paid by the convicts.** Warrants of imprisonment be prepared along with warrants as per Form No.40, Cr.PC., and the convicts be committed to District Jail, Faridabad at Neemka, to undergo the sentences awarded to them. File be consigned to the record-room, after

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due compliance.

Pronounced in open Court:
07th June 2023.

(Prashant Rana)
Special Court/ASJ (Fast Track),
POCSO, Palwal, 07.06.2023.
UID No. HR0195.

Note: Certified that this order contains 29 pages and all the pages of this order have been checked & signed by the undersigned.

(Prashant Rana)
Special Court/ASJ (Fast Track),
POCSO, Palwal, 07.06.2023.
UID No. HR0195.

Virender Kumar

(Prashant Rana)
Special Court/ASJ (Fast Track),
POCSO, Palwal.
(UID No.HR0195).
07.06.2023.