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CASE STUDY OF BACHAN SINGH VERSUS STATE OF PUNJAB

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CASE STUDY CITATIONS – 9 MAY, (1980) (AIR 1980 SC 898, 1980 CrilJ 636, 1982(1) SCALE 713, (1980) 2SCC 684, 1983 1 SCR 145

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

Facts of the case– The appellant, Bachan Singh, was convicted of killing his wife and given a life sentence. After serving his prison sentence (i.e., after his release), he moved in with his cousin Hukam Singh and his family, but Hukam Singh's wife and son objected to the appellant remaining there. A few days before to this occurrence, Vidya Bai saw the appellant hit her sister, Beeran Bai, in the face with an axe while she was startled by an alarm in the middle of the night. Vidya Bai was attacked in the face and ear with an axe as she attempted to stop the appellant, suffering severe injuries that caused her to fall unconscious. Diwan Singh, a nearby sleeper, was alerted by the scream.

Issues: 1. Whether death penalty provided for the offence of murder in Section 302, Indian Penal Code,

1860 is unconstitutional? 2. Whether the Facts found by the lower courts would be considered "special reason" for awarding the death penalty as is required under Section 354(3) CRPC

Judgment:

The High Court of Punjab and Haryana dismissed the appellants' writ petition under Article 226 of the Constitution summarily on May 15, 1979, notwithstanding the fact that the case included significant legal issues. This appeal by special leave is in response to that decision. There are roughly 15, 731 bighas of Shamlat land in Mirzapur Village. The property is claimed to be jointly owned by petitioners 3 to 74, with Hasb Rasd Khewat serving as a gauge of their rights. In accordance with Section 3 of the Punjab Land Preservation (Chos) Act, 1900, the local government of Punjab issued a notification on September 23, 1914, listing a number of villages, including village Mirzapur in Kharar Tehsil. The local government issued Notification 459 on the same date as this notification, prohibiting tree

cutting in the designated areas for a period of 15 years in accordance with Section 4 of the aforementioned Act. On May 14, 1942, the Punjab Government issued a second notification under In the aforementioned lands, including hamlet Mirzapur, Section 5 once more enforced the ban on cutting trees or timber for a period of 15 years. Again Notification Adding a proviso that allowed owners and right holders in the area covered by the notification's schedule, which included the area of village Mirzapur, to sell trees or timber after obtaining permission from the Divisional Forest Officer, the Punjab Government issued a notification on October 9 amending Notification 459 of September 23, 1914. This was done in accordance with the Punjab Government's authority under Section 4 of the aforementioned Act.

The landlords of the Mirzapur hamlet, petitioners 3 to 74, reached an arrangement on July 19, 1972, whereby the latter sold the petitioners 1 and 2 the right to cut down trees on the aforementioned land in consideration for Rs. 75,500. This agreement was renewed by the right holders on a recurring basis in exchange for extra payment. On July 31, 1977, the last

contract was signed. This Agreement shall remain in effect for a further year, ending on March 31, 1980. On August 16, 1977 the landowners of the village of Mirzapur submitted an application to the Punjabi Forest Minister requesting that no further notifications under Section 5 of the aforementioned Act be made and that the right-holders be granted permission to cut down and sell the existing trees. Additionally, they asked that a directive be issued by the Forest Department allowing for the temporary labelling of the trees. On January 3, 1978, the Chief Conservator of Forests issued a temporary authorization to mark trees for sale outside the village of Mirzapur, even though it had been forbidden to cut down trees there for more than 35 years. According to the Ten Years Felling Program, the trees in this town should have been removed between 1976 and 1977. On January 16, 1978, the landowners of the village of Mirzapur obtained a permit from the Divisional Forest Officer for part-felling. As the autumn season was near to finish, they explained that they only intended to cut down the trees that had already been identified because it would probably take some time to tag every tree in the area. Last but not least, on February 14, 1979, the petitioners filed a petition with the High Court pursuant to Article 226 of the Constitution, asking for the issuance of a writ, order, or direction in the character of a mandamus compelling the respondents to grant them a final permit. As the autumn season was near to finish, they explained that they only intended to cut down the trees that had already been identified because it would probably take some time to tag every tree in the area. Last but not least, on February 14, 1979, the petitioners filed a petition with the High Court pursuant to Article 226 of the Constitution, asking for the issuance of a writ, order, or direction in the character of a mandamus compelling the respondents to grant them a final permit. The High Court gave the respondents notice that the motion was scheduled for February 27, 1979. The legal representative for the respondents appeared that day and requested extra time to write a

counter-affidavit. He requested that the respondents file their counter-affidavit by March 15, 1979. However, on March 9, 1979, in accordance with Section 5 of the aforementioned Act, the government issued a notification prohibiting the cutting of trees or timber for a 20-year term. Mr. F. S. Nariman, who is speaking on behalf of the appellants, asserts that the respondents legally granted the petitioners the time allotted for tree removal in the permit and that, since this time was not a deciding factor, the permit already issued for the removal of 7165 trees should have been honoured and its duration extended. The challenged notification issued by the respondents while the writ petition was pending was arbitrary and unreasonable because prior notifications had prohibited cutting down trees close to the village of Mirzapur for more than 35 years. The whole sale consideration had already been paid by the petitioners to the right-holders.

Reasoning:

The Supreme Court's decision in this case is hailed as one of its most important decisions regarding the death penalty. The entire nation takes attention to a case whenever someone receives the death penalty. The Supreme Court's decision in this case was anxiously anticipated by the whole nation. Sections 302 of the Indian Penal Code and Section 354(3) of the Criminal Procedure Code are legal under the constitutionality criteria, the court stated in its majority judgement. The death penalty should only be used in the "rarest of rare" circumstances, according to the Indian judiciary, who made their opinions about it abundantly clear in this case.

Conclusion:

One such punishment that, once executed, cannot be reversed is the death penalty, also referred to as the capital punishment. Although it is still used in India, this form of punishment is regarded as illegal in the majority of countries. Numerous judgments have taken into account the ongoing controversy over the death



sentence and its applicability and legitimacy. The death sentence was upheld as constitutional by the Supreme Court of India in *Bachan Singh v. State of Punjab*, which was decided by a vote of 4:1 with Justice PN Bhagwati's dissenting opinion.

