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## “BEYOND THE WORDS: RECONSTRUCTING THE VERDICT OF DEATH PENALTY IN DHANANJOY CHATTERJEE”

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### I. Abstract

The execution of Dhananjay Chatterjee in 2004 raised solicitude regarding the administration of the very criminal justice in India. Convicted for the rape and murder of Hetal Parekh, Chatterjee reportedly maintained his innocence until the eleventh hour, declaring “Ami nirdosh” (I am innocent). This assertion has continued to fuel debate regarding the fairness and integrity of his trial.

At the centre of the controversy is the issue of whether Chatterjee was given a fair trial, particularly given the alleged inadequate legal representation and procedural mishaps. Critics have argued that the proceedings were rushed and the evidence presented did not prove his guilt beyond doubt. This has raised a lot of doubts against the verdict and the entire judicial process when it comes to capital punishment. Despite these criticisms, the execution went ahead, and thus, left the issue of judicial error in death penalty cases unaddressed. This analysis will try to look at this facts and legal processes around it to determine whether there could have been any procedural lapses or shortcoming on the system that is in place that led to such an outcome. These issues are central to any consideration of the role of legal counsel, the media, and the reforms necessary for the criminal justice system in India, especially in cases involving the irreversible sanction of the death penalty.

### II. Research Problem

The imposition of the death penalty in *Dhananjay Chatterjee v. State of West Bengal*<sup>104</sup> remains one of the most controversial cases of capital punishment in India. Significant concern about fairness, consistency and constitutional validity remain regarding the use of “collective conscience of society” to uphold the sentence in the light of the “rarest of rare” doctrine by the judiciary.

The main issue is whether the judicial process in this case lived up to the constitutional guarantees of equality, fairness, and due process under Articles 14 and Article 21 of the constitution. This case study looks into whether or not judicial discretion with regard to the death sentence was influenced by non-legal factors such as sensationalism, public outrage, and media attention.

In addition, regardless of the doctrine regarding sentencing elaborated in cases like *Jagmohan Singh v. State of Uttar Pradesh* and *Rajendra Prasad v. State of Uttar Pradesh*, there is arbitrariness in the application of sentencing principles to distinguish between life imprisonment and capital punishment. This inconsistency presents a great concern of whether the “rarest of rare” doctrine has been a principled safeguard or a malleable justification for judicial discretion.

Thus, the research problem seeks to determine if the case and subsequent execution of *Dhananjay Chatterjee* constituted a just and constitutional precedent in the jurisprudence surrounding the imposition of death penalties or if it exposed structural deficiencies inherent within India’s criminal justice system with particular regard to sentencing discretion, evidentiary expectations, and the impact of

<sup>104</sup> *Dhananjay Chatterjee v. State of West Bengal* (1994) 2 SCC 220 (India).

extraneous factors on judgment. Instead, the study will examine death penalty as an idea beyond the final verdict by deconstructing the legal reasoning, procedural fairness, and wider socio-legal implications of the case.

### III. Research Objectives

#### A. To critically examine the judicial reasoning in the case

This objective focuses on analysing how the courts interpreted the evidences found and applied the legal principles. It aims to assess whether the reasoning was consistent with the established doctrines like the “rarest of rare” principle as developed in the case, *Bachan Singh v. State of Punjab*<sup>105</sup>. The goal is to determine whether the death sentence was justified on legal grounds or influenced by external considerations.

#### B. To evaluate the application of the “rarest of rare” doctrine

This objective seeks to appraise whether the facts of the case indeed met the threshold required in capital punishment. This objective seeks to review whether aggravating facts and mitigating ones were properly weighed, as well as whether the sentencing process met the constitutional safeguards under Article 21. This is done through analysing constitutional safeguards under Article 21, and appraisal of aggravating and mitigating circumstances, and whether the facts of the case genuinely met the threshold for capital punishment.

#### C. To investigate the role of public opinion and media influence on sentencing

The *Dhananjay* case has often been criticised to reflect the “collective conscience” of society. This objective looks at the effect of media coverage and public sentiments on the judiciary, and the perception that such coverage influences judicial neutrality. It makes one question whether the judicial system was truly neutral or if it was influenced by the outrage of the society.

#### D. To analyse procedural fairness and evidentiary standards in capital cases

This objective dwelt on whether or not due process was observed in full during investigation and trial. This objective considers issues like the use of circumstantial evidence, the legal counsel, and the observance of due process. This objective will focus on whether or not the due process was fully observed throughout investigation to trial.

#### E. To explore socio-economic and systemic biases in capital punishment

This objective looks at whether factors such as class, economic status, or access to legal resources contributed to the outcome. Drawing on larger-scale studies of death sentences in India, it assesses whether the criminal justice system is prejudiced against marginalized groups, and if *Dhananjay's* trial and sentence are indicative of such prejudices.

#### F. To reconstruct the concept of justice beyond the judicial verdict

The concern here is not legality but whether the result was “just.” This means looking at justice in several contexts: legal, moral, social, and human rights. The focus is on questioning whether execution was justice or whether justice could have been better served by other means (like life imprisonment).

### IV. Research Methodology and Sources of Data

The present study has adopted a doctrinal (analytical and descriptive) research methodology and had collected its data from various articles, journal articles and various secondary sources which are used here to provide the required details to analyse the mentioned case, including research papers, articles, and other sources, to gather and utilize the information to highlight the topic and to discuss it in detail. This has also utilized the required laws and statutes to interpret the mentioned case laws.

<sup>105</sup> *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684 (India).

## V. Literature Review

### A. *Human Rights in the Criminal Justice System*, P. N. Bhagwati

This article aims to deal with the role of human rights and their violation and protection in the criminal justice system. This article questions to what extent the justice system must protect the rights of the parties involved. This article attempts to deal with the protection of the rights of the parties as well as serving the deserved justice to them. (Bhagwati, 1985)

### B. *Towards an International Right to Claim Innocence*, Brandon L. Garrett

This article aims to deal with the wrongful convictions and the laws relating to the same incorporated in different countries. This article states that large and small countries, civil and common law countries, countries with very different perceptions towards criminal justice have increasingly developed mechanisms to permit convicted individuals to claim innocence. (Garrett, 2017)

### C. *The Death Penalty: Perspectives from India and Beyond*, Sanjeev P. Sahni & Mohita Junnarkar

This book Covers Indian and global debates on capital punishment and various discussions on deterrence, wrongful executions, and alternatives. Altogether it would help one to frame policy critique around cases like the one (Dhananjay Chatterjee).

## VI. Introduction

*"Retaliation is related to nature and instinct, not to law. Law, by definition, cannot obey the same rules as nature"*

- Albert Camus

The intrinsic significance of human existence is paramount to the social fabric, deeply intertwined with a multitude of emotions and attachments within the cyclical rhythm of nature. This profound importance is arguably what distinguishes humankind from other living species in this eternal sphere. The capital punishment, or the death penalty, is essentially defined as the state-sanctioned termination of an individual's life, executed through the due

process of law following the conviction for a heinous offense. Far from being a novel concept, this punishment has an ancient provenance, maintaining an immortal presence throughout the centuries of human civilization.

The principle of 'presumption of innocence' stands as the unwavering foundation of our adversarial legal mechanism. In this framework, the accused is presumed innocent until proven guilty beyond a reasonable doubt, with the burden of proof resting on the prosecution (J.P, 1971). Consequently, the accused is afforded various avenues of defence throughout the legal trajectory until conviction. Nevertheless, the trial process is occasionally marred by instances of aggravation stemming from frivolous or malevolent actions, potentially orchestrated by law enforcement officials who might fabricate incriminating evidence against an innocent party. Such scenarios culminate in wrongful convictions, underscoring a glaring deficit of accountability and transparency within the legal system.

The Criminal Procedure Code of 1973 incorporates various fundamental legal mandates, including the presumption of innocence and mechanisms for compensation, ostensibly intended to preclude such injustices. Yet, there remains a conspicuous absence of robust statutory safeguards to protect the interests of those wrongfully prosecuted, particularly as misconduct by law enforcement and prosecutorial agencies engenders a significant volume of false accusations resulting to what it is called "wrongful convictions." This situation not only disrupts the societal equilibrium but also imposes an escalating burden on the judiciary, resulting in a proliferation of pending cases and protracted delays in their resolution.

The concept of wrongful conviction is starkly illustrated by the seminal case of Dhananjay Chatterjee v. State of West Bengal<sup>106</sup>. The accused in this case was convicted and subsequently sentenced to death after a

<sup>106</sup> Ibid (n 1)

protracted thirteen-year legal struggle and custody, solely predicated on circumstantial evidence. Dhananjay Chatterjee holds the sober distinction of being the first individual executed in India in the 21st Century. Furthermore, an alternative conjecture concerning the victim's murder suggests a judicial system predisposed towards conviction rather than meticulous delivery of deserved justice.

### VII. A Brief on Death Penalty–

Capital punishment or death penalty by its very nature presents fundamental issues regarding its ability to control crime and eradicate criminals from the society. A complete change of the society by this means is therefore unlikely, due to the fact that a lasting reduction of crimes can only be attained when criminals undergo a real change of themselves, with a view to reform and improvement. India. Distinguishing itself from the rest of the world in its position on the death penalty Finally, an execution is irreversible; once a person is executed, no remedy can be applied if the person was wrongly judged.

The existence of death penalty dates back to ancient times, with the earliest recorded usage being around 1750 B.C. This punishment is very well documented in ancient scriptures such as the Code of Hammurabi and Bible. Also, classical thinkers, including Plato, John Locke and Thomas Hobbes, all supported this punishment for heinous crimes aligned with their social contract theories.

Where this was case being followed, then this concept of punishment took a dimensional change in the society, whereby it led to the abolishment of this death penalty or capital punishment, where it became a debatable issue by one of the great criminologists named Cessare Beccaria, who convinced many people that death penalty should be abolished because it is in-human, useless and technically speaking, a public assassination. This changed

perspective spawned abolitionist movements, Michigan first state to abolish the death penalty in 1846 followed by Portugal and Venezuela in 1867. The United Nations also supported the abolitionist movement during the formation of the Universal Declaration of Human Rights in 1948.

### VIII. Study Of Seminal Judgments on the Death Penalty in India

The constitutional validity of the death penalty has become a central issue within the Indian criminal justice system. Several landmark decisions have addressed both the imposition of capital punishment and its compatibility with constitutional guarantees. A significant development in this area has been the evolution of the “rarest of rare” doctrine, which seeks to limit the application of the death penalty.

In *Jagmohan Singh v. State of Uttar Pradesh*<sup>107</sup>, the Supreme Court first examined the constitutional validity of capital punishment in India. The counsel for the appellant, in this very case, advanced three principal arguments against the validity of section 302 of the IPC<sup>108</sup>. First it was contended that capital punishment takes away all the rights guaranteed under Article 19 (1) of the Constitution. Second, it was argued that the discretion exercised in awarding the death penalty lacked any fixed standards or guiding principles. Third, the counsel asserted that such unguided and arbitrary discretion violated Article 14, which guarantees equality before the law. It was further argued that similarly situated individuals convicted of murder often received different punishments—one being sentenced to death while another to life imprisonment—thereby demonstrating arbitrariness. Additionally, it was contended that the death penalty infringes Articles 14, 19, and 21, particularly due to the absence of a clear procedural framework to determine when capital punishment should be imposed after conviction.

<sup>107</sup> Ibid (n 2)

<sup>108</sup> Indian Penal Code, 1860

In this specific case, since the entirety itself is not clear after the accused is found guilty, there is no other way of procedure established by law to determine whether death sentence or other less punishment is appropriate. But this contention was rejected by the Supreme Court as it held “in important cases like murder the court always gives a chance to the accused to address the court on the question of death penalty”. The Court also held “deprivation of life is constitutionally permissible provided it is done according to procedure established by Law. The death sentence per se is not unreasonable or not against public interest. The policy of the Law in giving a very wide discretion in the matter of punishment to the Judges has its origin in the impossibility of laying down standards. Any attempt to lay down standards as to why in one case there should be more punishment and in the other less punishment would be an impossible task. What is true regarding punishment imposed for other offences of the Code is equally true in the case of murder punishable under section 302 I.P.C.<sup>109</sup>. No formula is possible that would provide a reasonable criterion for infinite variety of circumstances that may affect the gravity of the crime of murder. The impossibility of laying down standards is at the very core of the criminal law as „administered in India which invests the Judges with a very wide discretion in the matter of fixing the degree of punishment”.

A shift in judicial approach can be seen in case of Rajendra Prasad Vs State Of Uttar Pradesh<sup>110</sup> as Justice Krishna Iyer, observed that “..... the humanistic imperative of the Indian Constitution, as paramount to the punitive strategy of the Penal Code, has hardly been explored by the courts in this field of ‘life or death’ at the hands of the Law. The main focus of our Judgement is on this poignant gap in human rights Jurisprudence within the limits of the Penal Code, impregnated by the Constitution...in the post-constitutional period section 302, IPC and section 354(3) of the Code

of Criminal Procedure have to be read in the human rights of Parts III and IV, further illuminated by the Preamble to the Constitution.” Justice Iyer argued that the death penalty should only be imposed where it is demonstrated that the offender poses a continuing threat to society. He further questioned the constitutionality of granting judges broad discretion under Section 354(3) of the Code of Criminal Procedure, suggesting that such discretion could lead to arbitrariness in violation of Article 14.”

Justice Iyer also advocated for the near abolition of the death penalty, proposing its retention only in exceptional categories such as certain white-collar crimes. His reasoning underscores the evolving constitutional perspective that prioritizes human rights over purely punitive considerations. It is often argued that this approach aligns with the post-constitutional transformation of criminal law, wherein life imprisonment is the rule and the death penalty an exception. Consequently, while discretion in sentencing remains with the judiciary, it must be exercised within the framework of constitutional principles, ensuring fairness, consistency, and respect for fundamental rights.

#### IX. Facts of the Case-

Nagardas Parekh, a shopkeeper, along with his wife Yashomati Parekh and their two children Bhavesh Parekh and Hetal Parekh, resided in Anand Apartments in Paddapukur, Kolkata. Hetal Parekh was an 18-year-old student of the Welland Goldsmith School in Kolkata. On 2 March 1990, Hetal complained to her mother that the watchman of their building, Dhananjay Chatterjee, had been harassing her on her way to and from school. Yashomati subsequently conveyed this to her husband, Nagardas Parekh, about the appellant's conduct towards their daughter. In response to this, the issue was raised to Shyam Karmakar, asking him to take action against the appellant. At the request of Shyam Karmakar, who himself visited Nagardas at

<sup>109</sup> Ibid (n 7)

<sup>110</sup> Ibid (n 3)

his apartment regarding the matter, a written complaint was eventually submitted. Consequently, the appellant was transferred, and Shyam issued a transfer order and assigned the appellant to 'Paras Apartment.' Bijoy Thapa, a security guard at Paras Apartment, then took over the appellant's position at Anand Apartment. This transfer was about to begin from March 5, 1990. On that very day, according to their usual schedule, Nagardas Parekh and his son Bhawesh Parekh, left for work and school, respectively, in the morning. Then, as usual, Bhawesh returned to the apartment around 11:30 a.m., had his meal, and went to his father's workplace. The deceased came back to her flat after completion of her exam at approximately 1 p.m. Yashmoti, according to her daily routine, would visit Laxmi Narayan Mandir between 5 and 5:30 p.m. On the day of the incident, she left for the temple around 5:20 p.m. Hetal, the victim, was all alone at that time. Shortly after the time Yashomoti departed, the appellant came across Dasarath Murmu, another security guard on duty, and informed him he was heading towards Flat No. 3-A for a phone call. Then, the appellant took the lift to that flat and committed the alleged offenses. At approximately 6:05 p.m., Yashomoti returned from the temple and rang the doorbell repeatedly, but received no response. Concerned, she called for assistance, attracting neighbors who also attempted to gain entry by knocking and ringing the bell. When all attempts failed, the neighbors, along with the household servant and the liftman, forcibly opened the door. Upon entering, Yashomoti noticed that the bedroom door was partially open. Inside, she found Hetal lying unconscious on the floor, with her clothes disheveled and visible signs of severe violence. There was blood on her body, clothes, and on the floor, as well as on the swing in the room. Her undergarments were found near the entrance door. Yashomoti immediately lifted

her daughter and rushed downstairs while a doctor was summoned. The doctor examined Hetal in the elevator and declared her dead.

The whole incident was informed to Bhavesh, who returned home around 7:00 p.m., followed by Nagardas Parekh at approximately 9:30 p.m. He subsequently informed the Bhawanipore Police Station. Acting on the information, Sub-Inspector Gurupada Som arrived promptly at the scene with other officers, recorded the First Information Report based on Yashomati Parekh's statement, and initiated the investigation.

#### X. Investigation

At the crime scene, the police recovered several unusual items, including a broken chain and a cream-coloured shirt button. Additionally, a woman's Ricoh wristwatch was found missing from the cupboard; it was later identified by Yashomati the following day. The lift operator informed the police that Dhananjay had used the lift to access Apartment 3-A.

The post-mortem examination of Hetal's body revealed as many as 21 injuries on various parts of her body, including the neck, hip, and elbow. The injuries indicated that she had been repeatedly struck on the face and forcibly pressed against a swing in the room. There were also signs of sexual assault, as evidenced by tears in the hymen, the presence of fresh blood, and traces of semen; however, the semen had degraded to such an extent that its origin could not be determined. The cause of death was established as strangulation, supported by the fracture and dislocation of the hyoid bone—an injury that typically requires considerable force—clearly indicating homicidal death.

The police initiated a search for Dhananjay on the night of the incident, but he could not be located. In the days that followed, he neither reported for duty nor returned to collect his wages. Eventually, on 12 May 1990, he was apprehended in his native village and arrested.

According to the police, Dhananjay confessed to the crime upon arrest and led them to the locations where he had concealed his shirt and the wristwatch. However, under the provisions of the Indian Evidence Act, confessions made to police officers are generally inadmissible in court, as they may be obtained through coercion. Consequently, the prosecution relied primarily on circumstantial evidence, in the absence of direct proof linking the accused to the crime.

The prosecution's narrative was that Yashomati left for the temple at approximately 5:20 p.m. Around the same time, Dhananjay informed another guard, Dasarath, that he was going to Apartment 3-A to make a phone call and proceeded there via the lift. At about 5:45 p.m., when the security supervisor inquired about Dhananjay's whereabouts, Dasarath relayed this information. Attempts to contact the flat went unanswered, prompting the supervisor to call out Dhananjay's name from the ground floor. Dhananjay appeared on the balcony, stating that he would come down shortly. He subsequently descended via the stairs, spoke briefly with the supervisor, and then left the premises.

Further evidence collected by the police included a complaint made by Nagardas to Shyam regarding Dhananjay, as well as a transfer order issued to him. The guarantee card for the wristwatch, establishing Yashomati's ownership, was also produced as evidence. Importantly, the broken chain recovered from the crime scene was linked to Dhananjay, as it was established that a neighbour had given it to him approximately one month prior to the incident.

### **XI. Evidence and Trial Proceedings**

Following Hetal's death, the police and judiciary initiated a thorough investigation into the circumstances surrounding the crime. Forensic experts meticulously examined the crime scene to collect crucial evidence for the prosecution. The post-mortem examination revealed clear signs of physical assault, concluding that the

cause of death was strangulation and suffocation. This finding significantly strengthened the prosecution's case by underscoring the brutality of the offence.

Both the Trial Court and the High Court held that the circumstantial evidence, along with materials recovered from the appellant and the victim's residence, conclusively established the appellant's guilt. The Trial Court sentenced him to capital punishment, which was subsequently confirmed by the High Court.<sup>111</sup> Notably, when the appellant was apprehended seven days after the incident, items stolen from Hetal's apartment—including her wristwatch—were found in his possession. This recovery provided strong incriminating evidence linking him directly to the break-in and the fatal assault.

The trial proceedings unfolded under intense public scrutiny and widespread community outrage. The court undertook an objective evaluation of the evidence and testimonies presented by both the prosecution and the defence. The prosecution built its case systematically, relying on witness testimonies that highlighted the appellant's prior conduct, including his disregard for a transfer order and the victim's earlier apprehensions regarding his behaviour. Through this narrative, the prosecution sought to establish both motive and opportunity, portraying a consistent pattern of misconduct.

In addition, forensic evidence played a crucial role in strengthening the prosecution's case. Fingerprints and other material evidence recovered from the scene and from the appellant's possession were used to connect him to the crime. The recovery of stolen items from the victim's flat further reinforced the inference that the appellant was responsible not only for the burglary but also for the subsequent assault leading to Hetal's death.

<sup>111</sup> LegalStix Law School, *The Dhananjay Chatterjee Case: A Landmark in Indian Legal History*, LegalStix Law School Blogs, <https://legalstixlawschool.com/blog/The-Dhananjay-Chatterjee-Case-A-Landmark-in-Indian-Legal-History>

In his defence, Dhananjay Chatterjee consistently maintained his innocence throughout the trial. He claimed that on the day of the incident, he had left the apartment complex to attend a family gathering in his village. His defence strategy primarily relied on this alibi, along with attempts to challenge the credibility of prosecution witnesses and the integrity of the evidence collection process. The defence also questioned the chain of custody of the recovered items, pointing to alleged inconsistencies and gaps in the prosecution's case.

The courtroom proceedings were marked by intense cross-examinations, forceful legal arguments, and emotionally charged testimonies. Members of the victim's family expressed profound grief and anguish, highlighting the devastating impact of Hetal's death on their lives and the broader community.

## XII. Judgement-

In this case, the appellant was charged with offences of assault, burglary, and murder committed at Anand Apartments. The trial, which extended over several weeks, involved detailed judicial scrutiny of evidence presented by both the prosecution and the defence, including witness testimonies and forensic reports.

The prosecution sought to establish a clear sequence of events leading to the death of the victim, Hetal Parekh. It relied significantly on witness testimonies that highlighted the appellant's prior misconduct and alleged harassment of the victim, thereby suggesting a possible motive. These testimonies portrayed a pattern of persistent inappropriate behaviour, providing context to the events culminating in the crime. A crucial element of the prosecution's case was the conduct of the appellant on 5 March 1990. Despite instructions from his employer to relocate to another building, he remained at Anand Apartments, thereby placing himself in close proximity to the scene

of the crime and raising suspicion regarding his intentions.

Forensic evidence further strengthened the prosecution's case. Expert analysis indicated that the victim died due to suffocation and strangulation, pointing to a violent assault. Additionally, certain personal belongings of the victim, including her wristwatch, were recovered from the possession of the appellant at the time of his arrest. This recovery provided a direct link between the appellant and the offences of burglary and murder.

The defence, however, maintained the appellant's innocence and advanced an alibi, claiming that he had left the premises to attend a family function in his native village on the day of the incident. It also sought to challenge the credibility of witness testimonies and questioned the integrity of the investigation and evidence collection process. The trial proceedings were marked by intense arguments from both sides, as well as emotionally charged testimonies from the victim's family members, which underscored the profound impact of the crime on their lives.

Upon evaluation of the evidence, the court found the prosecution's case to be convincing. The appellant was convicted on all charges, with the court relying on corroborated witness accounts, forensic findings, and the failure of the defence to substantiate a credible alibi. The Alipore Sessions Court sentenced the appellant to death in 1991. This sentence was subsequently upheld by

the Calcutta High Court and later affirmed by the Supreme Court of India. Dhananjay also filed mercy petitions with the Governor of West Bengal and the President, but both were rejected.<sup>112</sup>

During the sentencing phase, the courts took into account the gravity of the offences and their devastating impact on the victim's family.

<sup>112</sup> TNM Staff, *As 'Rapist-Murderer' Dhananjay's Story Comes on Screen, a Look at the Case That Shook India*, *The News Minute* (May 27, 2021), <https://www.thenewsminute.com/news/rapist-murderer-dhananjays-story-comes-screen-look-case-shook-india-64644>.

The case was classified under the “rarest of rare” category, warranting the imposition of the death penalty. However, the court did not consider the young age of the accused while awarding the sentence, which stands to be a very important factor.<sup>113</sup> The doctrine of “rarest of rare” requires a careful balancing of aggravating and mitigating circumstances, and the alleged omission of relevant mitigating factors has been a point of contention.

The execution of Dhananjay Chatterjee was carried out on 14 August 2004 at Alipore Central Jail, Kolkata. The case has since attracted considerable criticism, with some commentators alleging that the judgment was influenced by societal pressure and media portrayal. It has been argued that intense public outrage and media narratives, which quickly branded the accused as guilty, may have contributed to a climate demanding capital punishment. While these concerns continue to fuel debate, however, the merit of the trial is a debate of another day.<sup>114</sup>

### **XIII. Questioning the Conviction: Statistical Analysis and Inconsistencies**

At the time of the execution of Dhananjay Chatterjee, two statisticians—Probal Chaudhuri and Debasis Sengupta from the Indian Statistical Institute—undertook a detailed re-examination of the case and identified several inconsistencies in the prosecution’s narrative.

One of the primary concerns related to the timeline of events. The prosecution’s version required that the accused commit rape, inflict 21 injuries, murder the victim, steal a wristwatch, interact with witnesses, and exit the premises—all within a span of approximately 25 minutes. The statisticians argued that such a sequence of events within this limited timeframe appeared highly improbable.

Further inconsistencies emerged from witness testimonies. A witness, Dasarath, claimed that the accused leaned out of a balcony when called; however, the presence of protective grills on the balcony made such an action physically unlikely. Additionally, although the victim had reportedly resisted her attacker—evidenced by blood on her hands—neither Dasarath nor the building supervisor observed any injuries, bloodstains, or suspicious behaviour on the accused. This raised doubts about whether he had been involved in a violent struggle.

The conduct attributed to the accused also appeared inconsistent with typical criminal behaviour. It was argued that a person intending to commit rape and murder would be unlikely to disclose his whereabouts or respond to calls that could draw attention. Moreover, if the victim’s screams were audible to the accused on the third floor, it would be reasonable to expect that individuals on lower floors would have heard them as well; however, no such corroboration was reported. The prosecution’s case was further weakened by the fact that the lift operator—an important witness—was declared hostile during the trial, thereby undermining key elements of the narrative.

Based on these discrepancies, the statisticians questioned the correctness of the conviction and explored alternative hypotheses that were allegedly insufficiently investigated. One such theory suggested the possibility of involvement by members of the victim’s family. The post-mortem report indicated the presence of partially undigested food in the victim’s digestive system, suggesting that death may have occurred shortly after a meal, which did not align with the prosecution’s timeline placing the incident after 5:00 p.m.

Additional concerns were raised regarding the conduct of the victim’s family, who reportedly arrived several hours after receiving news of the incident, and the delay in informing the police, which could have allowed time for potential tampering with evidence. Questions were also

<sup>113</sup> Dhananjay Chatterjee Case: A Noteworthy Lesson for the Judiciary, *The Law Blog* (Aug. 17, 2020), <https://thelawblog.in/2020/08/17/dhananjay-chatterjee-case-a-noteworthy-lesson-for-the-judiciary/comment-page-1/>.

<sup>114</sup> Shantanu Mishra, *Dhananjay Chatterjee Case: A Noteworthy Lesson for the Judiciary*, *THE LAW BLOG* (Aug. 17, 2020), <https://thelawblog.in/2020/08/17/dhananjay-chatterjee-case-a-noteworthy-lesson-for-the-judiciary/comment-page-1/>.

raised about the allegation of rape. The post-mortem report did not conclusively establish sexual assault; instead, it noted injuries primarily on the neck and face and indicated the possibility of recent consensual sexual activity, as evidenced by fresh hymenal tears.

Despite this, the prosecution proceeded on the premise of rape, and this assumption was not effectively challenged during trial. The statisticians suggested that alternative explanations—including the possibility of an altercation arising from the discovery of consensual intercourse—were not adequately explored. While such hypotheses remain speculative, they highlight potential investigative gaps and underscore the importance of rigorous evidentiary scrutiny, particularly in cases involving the death penalty.

#### **XIV. Evidentiary Inconsistencies, Procedural Lapses and the Fragility of Circumstantial Conviction**

Here, the conviction of the accused was primarily based on three eyewitness accounts and three pieces of material evidence. According to the prosecution, the victim was raped and murdered in her third-floor apartment between approximately 5:20 p.m. and 5:50 p.m., during which time she was alone, as her mother had gone to a nearby temple. Within this brief interval, the prosecution alleged that the accused inflicted as many as 21 injuries, including fatal strangulation, and committed theft of a wristwatch.

Two key witnesses—a security guard employed by a private agency and his supervisor—claimed to have seen Dhananjoy, an off-duty guard of the same agency, entering the building. They further alleged that he responded to their call by leaning out from the balcony of the victim's flat. However, this account appears questionable, as it has been argued that the balcony was enclosed with grills, making such an action physically improbable. Additionally, the balcony was reportedly not visible from the position where the witnesses were stationed.

The third witness, a liftman, was declared hostile during the trial. Contrary to the prosecution's version, he denied having taken the accused to the third floor and stated instead that he saw Dhananjoy shortly after the alleged time of the incident. Contemporary media reports, based on initial police briefings, corroborated the liftman's account and indicated that there were no visible bloodstains on the accused's clothing. Notably, no prosecution witness testified to having seen any such stains. Furthermore, there was no mention in these reports of the alleged balcony interaction, nor was there any indication that anyone heard the victim's cries, which were supposedly audible through the balcony door.

The material evidence presented by the prosecution also raises concerns. One such item was a neck chain recovered from the crime scene. Initially, a servant from a neighbouring flat claimed ownership of the chain but later altered his testimony in court, stating that he had gifted it to the accused. Another piece of evidence was a wristwatch allegedly stolen from the victim and later recovered from Dhananjoy. However, early media reports suggested that no items had been stolen from the flat. Moreover, the serial number of the watch was never verified against purchase records, despite the police having access to the relevant shop.

A third piece of evidence was a button found at the crime scene, which was forensically linked to a shirt allegedly recovered from the accused. The circumstances surrounding this recovery were doubtful, as there were no independent witnesses present. Of the two witnesses cited in connection with the recovery, one was never produced in court, while the other was reportedly associated with a shop near the police station and had regular interactions with police personnel, thereby raising questions about credibility.

Serious procedural lapses were also evident in the handling of the crime scene. The police reportedly arrived more than three hours after

the victim's body was discovered, during which time the scene had been disturbed, the body moved multiple times, and potential evidence compromised.

The prosecution attributed a motive of vengeance to the accused. It was alleged that he had previously harassed the victim on her way to school, prompting a complaint from her family that led to his transfer by the security agency. This transfer was said to have angered him, leading to the crime. However, the authenticity of the supporting documents—including the complaint letter and transfer order, which were seized several months after the incident—has been questioned. Such agencies typically do not follow formal written procedures for employee transfers.

Additionally, contemporaneous media reports from immediately after the incident made no reference to any allegation of harassment or transfer. The narrative of harassment emerged only later, and even then, inconsistencies appeared regarding who had made the complaint. Similarly, reports about a proposed transfer evolved over time and did not initially align with the prosecution's version that only the accused was to be transferred on the day of the incident. The gradual and inconsistent emergence of this narrative raises the possibility of fabrication.

Finally, it appears implausible that the victim, if previously harassed by the accused, would have voluntarily allowed him entry into her home while she was alone, particularly when the door was equipped with a peephole offering a clear view of visitors.

#### **XV. Media Pressure, Circumstantial Evidence, and the Crisis of Fair Trial Rights**

The case remains one of the most controversial and unsettling episodes in India's criminal justice history, particularly with respect to concerns about fairness, due process, and the administration of the death penalty. Although Chatterjee was provided legal representation during his trial, which commenced in 1991,

persistent doubts have been raised regarding the adequacy and effectiveness of his defence. Critics and human rights advocates have pointed to potential deficiencies in his legal counsel, arguing that he may not have been equipped with a sufficiently robust defence to effectively challenge the prosecution's case. Given the irreversible nature of capital punishment, these concerns underscore broader issues relating to the right to a fair trial and the need for stringent due process safeguards.

The case was further complicated by intense media scrutiny and public pressure. The brutal nature of the crime and the demand for justice for the victim, Hetal Parekh, created an atmosphere in which the legal system was under considerable pressure to deliver a swift and decisive outcome. Such heightened public attention raises legitimate concerns about the impartiality of judicial proceedings and the possibility that external influences may have indirectly shaped the course of the trial.

Chatterjee was ultimately convicted in 1991 and sentenced to death by hanging. Over the following years, he pursued multiple appeals and clemency petitions, all of which were rejected. After exhausting all legal remedies, he was executed on 15 August 2004. It is not as if the Indian media lack the resources or the ingenuity to do so<sup>115</sup>, with arguments focusing on its moral justification, deterrent value, and the risks associated with imposing such an irreversible punishment in cases where guilt may not be beyond doubt.

A significant aspect of the criticism surrounding the case relates to the reliance on circumstantial evidence and a contested confession. Questions were raised regarding the credibility of the confession, particularly in light of concerns about whether it may have been obtained under coercion. Furthermore, several gaps and inconsistencies in the prosecution's

<sup>115</sup> Jayaram N., *How India Hanged a Poor Watchman Whose Guilt Was Far from Established*, Scroll.in (July 21, 2015), <https://scroll.in/article/741784/how-india-hanged-a-poor-watchman-whose-guilt-was-far-from-established>

narrative remained insufficiently addressed. For instance, doubts persisted regarding how Chatterjee allegedly entered and exited the apartment, particularly when the door was reportedly locked from the inside. Similarly, questions were raised as to why the victim would have permitted entry to an individual who had allegedly harassed her in the past.

Additional concerns were directed at lapses in investigation and institutional accountability. The employer had reportedly issued multiple transfer orders concerning security personnel, yet there was little verification of compliance. The circumstances under which Chatterjee was allowed access to the apartment, including permission to visit the third floor under the pretext of making a phone call, were not adequately examined. Moreover, a potential conflict of interest emerged from Chatterjee's prior complaint against another security guard, suggesting the possibility of bias in witness testimony—an issue that was not meaningfully addressed during the trial.

Critics have argued that these investigative and procedural shortcomings may have compromised the integrity of the verdict. The case thus highlights the vulnerability of capital punishment cases to errors, particularly where convictions are based primarily on circumstantial evidence. Human rights organisations and legal scholars have consequently called for reforms aimed at strengthening due process protections, ensuring competent legal representation for all accused persons, and enhancing transparency and accountability within the criminal justice system.

It is also noteworthy that Chatterjee spent approximately fourteen years on death row prior to his execution, raising concerns about the psychological and legal implications of prolonged incarceration under the shadow of death. Some scholars have argued that systemic inequalities, including limited access to effective legal representation due to economic constraints, may have contributed to

the outcome of the case. Meanwhile, inconsistencies in witness statements, including those of the victim's family, received limited scrutiny in public discourse, further intensifying doubts about the overall fairness of the proceedings.

Ultimately, the Dhananjay Chatterjee case stands as a cautionary example of the complexities inherent in administering capital punishment. It has prompted critical reflection on the ethical legitimacy of state-sanctioned executions, the necessity of safeguarding the right to a fair trial, and the responsibility of the judiciary to balance the demands of justice with the protection of individual rights. The case continues to influence debates on the future of the death penalty in India and the need for a more just, equitable, and reliable criminal justice system.

#### **XVI. A Competing Narrative**

The police investigation in the case appears to have been significantly influenced by inputs which were provided by the victim's family. Several circumstances raise questions about the direction and objectivity of the investigation.

First, the physical circumstances of the crime make the involvement of an outsider difficult to reconcile. The offence occurred in a third-floor flat within an apartment complex guarded by security personnel. The nature of the crime apparently is an unplanned murder involving multiple injuries but no identifiable weapon which further complicates the theory of an external perpetrator. Additionally, the perpetrator would have had to clean up and change clothes after what was described as a violent and bloody incident, all within a very limited timeframe.

According to the family's account, the victim's mother was present in the flat for most of the afternoon, leaving only briefly to visit a temple. If the murder did not occur during her absence, it must have taken place while she was present. This raises the possibility of her involvement, which arguably warranted closer scrutiny. At the time, the mother was 52 years old and

reportedly of a strong build, whereas Dhananjay, aged 25, was relatively thin. Moreover, Dhananjay would have had limited time to commit the crime, allegedly steal a watch, respond to someone calling from the balcony, and change his clothes—constraints that did not apply to the victim’s mother.

The prosecution’s case also relied heavily on the allegation of rape. However, the medical evidence appears inconclusive. The post-mortem report noted a fresh tear in the hymen and matted pubic hair but did not record any injuries to the breasts, genitalia, or surrounding areas—findings typically associated with forcible sexual assault. Most of the 22 injuries sustained by the victim were concentrated on the face and neck. While the report mentioned general signs of resistance, it did not identify specific indicators of resistance to sexual intercourse. Notably, the term “rape” was not explicitly used in the post-mortem report. When asked whether rape had occurred, the autopsy doctor merely stated that the victim had engaged in sexual intercourse prior to death. This observation was subsequently interpreted by the court as evidence of rape, arguably based on a presumption already formed during the investigation.

Forensic findings further complicate the narrative. While semen was not detected in the vaginal swab, it was found on the victim’s pubic hair and underwear. This could be consistent with the possibility that the victim had engaged in consensual sexual activity prior to the incident and had subsequently worn her clothing again. It is plausible that the disclosure or discovery of such activity may have led to a confrontation, potentially involving a family member.

Additional inconsistencies arise in relation to the estimated time of death. Approximately 100 grams of undigested food were found in the victim’s stomach, suggesting that death occurred shortly after a meal. The victim was expected to return home from her ICSE examination around 1 p.m., and even allowing

for delay, she was likely to have eaten lunch soon thereafter. This raises the possibility that the murder occurred earlier than suggested by the prosecution, possibly before the mother left for the temple. However, this line of reasoning was not adequately explored during the investigation.

The behaviour of the victim’s mother following the discovery of the body also appears unusual. She had reportedly left the flat with the door secured by a spring latch and without carrying keys. Upon returning, instead of attempting to verify the victim’s whereabouts through reasonable means—such as checking other rooms or contacting her—she quickly called for the door to be broken open. After the body was discovered, she raised an alarm only after someone reportedly mentioned having seen Dhananjay in the vicinity earlier. She then attempted to transport the body to a hospital but remained in the lift for nearly an hour with the body in her lap until her son arrived. Although doctors who examined the victim declared her dead and advised informing the police, the authorities were contacted only after a delay of approximately three hours.

The subsequent investigation further reflects a narrow focus. After the arrival of the police, the victim’s father provided a timeline of events and pointed out certain items—such as a button and a chain—which were later used as material evidence against Dhananjay. The investigation team quickly identified him as the primary suspect, and his name appeared in the media the following day. This public identification, combined with police efforts to locate him, likely contributed to his absconding, which was later treated as evidence of guilt.

The investigation relied almost exclusively on the theory that Dhananjay, a security guard who had been seen in the building, committed the crime and fled. While his presence and subsequent disappearance may have raised suspicion, they were not conclusive proof of guilt. Alternative lines of inquiry—particularly those relating to the possible involvement of

family members—were neither adequately pursued by the police nor effectively presented before the courts.

Further doubts arise from the conduct of the victim's family after the incident. Despite having an established life in Kolkata, the family relocated to Mumbai within six months. Additionally, the victim's mother repeatedly avoided appearing in court, and when she eventually testified, there were notable inconsistencies between her statements in court and those made to the police. These discrepancies related to key aspects such as the discovery of the body and the timing of her departure for the temple.

In conclusion, apart from the initial suspicion arising from Dhananjay's presence in the building and his subsequent absconding, the evidence against him appears limited. At the same time, there existed stronger grounds to investigate alternative hypotheses, particularly involving the victim's family. The failure to pursue these leads raises serious concerns about the fairness and thoroughness of the investigation.

#### **XVII. Sequential Judicial Validation of the Verdict**

In this case, concerns have been raised regarding the fairness of the trial and the quality of legal representation provided to the accused. Notably, the allegation of rape was never essentially challenged at any stage of the proceedings. The defence counsel at the trial level failed to adequately cross-examine the witnesses and did not question critical procedural gaps, such as the delayed seizure of documents. The High Court itself observed that the defence counsel weakened the accused's case by contradicting him on material aspects, including the issue of a transfer order.

There are also indications that the defence counsel's commitment to the case diminished over time, possibly due to non-payment of fees, as reflected in correspondence with the accused's family. The adoption of an unsubstantiated alibi, despite multiple

witnesses placing the accused near the scene of the crime, proved to be a deeply flawed—if not self-defeating—strategy. Additionally, the accused's explanation for absconding was found to be unconvincing. These factors collectively suggest that the accused did not receive effective legal representation, raising serious concerns about the role of socio-economic disadvantage in capital sentencing. Significantly, Dhananjay himself reportedly stated before his execution that he was being punished because of his poverty.

Judicial reasoning in the case has also been subject to criticism. The High Court treated the victim's mother's account of the victim's alleged final words as a dying declaration, despite questions regarding its reliability. At the same time, inconsistencies in the testimony of certain prosecution witnesses—particularly the liftman—were used to discard parts of their evidence, while similar discrepancies in other witnesses' statements were overlooked. This selective approach to evidentiary evaluation raises doubts about the consistency and neutrality of judicial scrutiny.

Moreover, the courts appeared to fill gaps in the prosecution's narrative through conjecture. For instance, the absence of bloodstains on the accused's clothing was explained by hypothesizing that he may have removed his clothes before committing the crime. In several instances, the burden of proof seemed to shift implicitly onto the defence. Procedural irregularities in the search and seizure conducted at the accused's residence were acknowledged but were deliberately ignored, with the courts emphasizing that such lapses merely required scrutiny of evidence. However, such scrutiny appeared lacking, as crucial details—such as matching serial numbers of allegedly seized and stolen items—were not rigorously verified.

The courts also minimised investigative lapses, observing that the failure to seize documentary proof, such as a cash memo, did not necessarily imply fabrication of evidence. This reasoning

has been criticised for appearing to extend a presumption of innocence to the prosecution rather than the accused. Furthermore, the possibility that various stakeholders—including the victim’s family, the security agency, the police, and the prosecution—may have had institutional or reputational incentives to secure a conviction was not adequately considered. The security agency, whose employee was implicated, may have found it convenient to cooperate with the prosecution, while the police faced pressure to deliver swift results in a high-profile case.

Concerns have also been raised about the integrity of evidence and witness testimony. Many witnesses to the alleged seizures were either associated with the victim’s family or under the influence of the police. Similarly, most eyewitnesses were employees of the same security agency, with one turning hostile. This raises the possibility that the prosecution’s case reflected a version of events shaped by institutional narratives rather than an independent and objective reconstruction of facts.

At the appellate stage, the Supreme Court’s reasoning further invited scrutiny. The judgment explicitly referred to the “rising” incidence of crimes against women and emphasized the need for courts to respond to society’s demand for justice. In doing so, the Court appeared to rely on broader social considerations rather than strictly adhering to individualized sentencing principles. Critics argue that this approach overlooked essential safeguards in capital sentencing, particularly the requirement of objective and principled application of the “rarest of rare” doctrine. There is also concern that media coverage and public sentiment may have indirectly influenced the judicial outcome, despite the absence of any formal mechanism through which such sentiments should impact judicial decision-making.

#### **XVIII. Another Act of Homicide**

It appears that in this case, the police, security agencies, prosecution, and judiciary functioned

according to their usual institutional roles and constraints. However, an unintentional alignment of their interests created an aggressive force that this very case could not withstand, despite claims of innocence. These institutions, being embedded within society, are not immune to its prevailing prejudices. There was major sympathy for the victim’s family, an institution which, paradoxically, can also be a site of violence against women. Such societal bias may have hindered an objective and holistic evaluation of the evidence.

In the absence of a coherent alternative narrative, inconsistencies in the prosecution’s case were treated in isolation and subsequently disregarded. The process seemed to operate on a preconceived assumption of guilt, with efforts directed toward reconciling discrepancies rather than questioning the overall reliability of the case. It was as though the conclusion of guilt had been collectively accepted, and each institutional actor contributed to sustaining that conclusion in the name of justice.

Consequently, Dhananjay appeared to understand that his execution, carried out fourteen years after the incident, was the result of a system that had already determined his culpability, irrespective of whether he had actually committed the crime.

#### **XIX. Conclusion**

A free and fair trial is rudimentary to the genuine administration of justice, a principle which is vividly illustrated by this case. Dhananjay Chatterjee was executed for the rape and murder of Hetal Parekh. However, his conviction and sentencing have been subject to notable controversy. The allegations of procedural unevenness, insufficient legal representation, and the contentious reliability of the evidence have lodged doubt on the fairness of the judicial process. The case stands as a sharp reminder of the consequences that may arise when due process safeguards are overlooked.

A free and fair trial guarantees not only that justice is done but also that it is perceived to be

done. It surrounds essential principles such as the presumption of innocence, the right to competent legal representation, protection against coerced confessions, and the independence and impartiality of the judiciary. In this case, the concerns were raised regarding the dependability on the circumstantial evidence and a disputed confession, both of which called into question the trustworthiness and integrity of the prosecution's case. The questionable nature of the trial, accompanied with criticisms of the defence's effectiveness and the possible influence of public sentiment, underlines the susceptibility of accused persons in sensational cases.

Several factors in this case appear to have demeaned the ideals of a fair trial. These include the possible use of confessions obtained under coercion, heavy reliability on circumstantial evidence rather than incontrovertible proof, and the absence of vigorous legal representation capable of effectively challenging the prosecution. Such insufficiencies are particularly alarming in cases involving the death penalty, where the irreversible nature of the punishment demands the highest forms of procedural fairness and due process.

More broadly, the importance of a free and fair trial reflects central societal commitments to justice, human rights, and the rule of law. Regardless of the depth of the allegations, every accused individual must be provided a genuine opportunity to defend themselves, confront witnesses, and contest the evidence presented against them. These safeguards not only prevent failure of justice but also uphold the constitutional ideals of equality and fairness.

The case of Dhananjay Chatterjee also raises deeper ethical and legal questions regarding the death penalty. It forces a critical examination of the moral legitimacy of state-imposed capital punishment, the risk of judicial error, and the urgency to strengthen the procedural defences. The surviving doubts encompassing the fairness of his trial highlight

the importance of addressing systemic defects within the legal system.

Ultimately, this case emphasizes the crucial role of a free and fair trial in preserving justice, protecting human rights, and maintaining public confidence in the legal system. It serves as a dominant reminder of the extensive impact of judicial decisions and calls for continued efforts to enhance transparency, accountability, and due process protections, ensuring that justice is both done and distinctly seen to be done.

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