

IN THE SUPREME COURT OF INDIA

EXTRA ORDINARY JURISDICTION

Special Leave Petition (Crl.) No.6220 of 2018

MD. ALFAZ ALI

.... Petitioner (s)

Versus

THE STATE OF ASSAM

.... Respondent (s)

With

Special Leave Petition (Crl.) No. 7110 of 2018

O R D E R

1. On 31.10.2006, a complaint was filed by Md. Abdul Jalil son of Kalu Khan, resident of village Kareyia Pahar to Officer-in-Charge of Police Station Jogighopa, District Bongaigaon alleging that his daughter Marzina Begum was killed by the Petitioner, who is her husband. The Petitioner was convicted under Section 302 IPC and was sentenced to undergo rigorous imprisonment for life. The appeal filed by the Petitioner challenging the conviction and sentence was dismissed by the High Court by a judgment dated 15.07.2016, aggrieved by which this Special Leave Petition is filed.

2. Notice was issued on 27.07.2018, restricted to the question of propriety of specifying rigorous imprisonment while imposing life sentence.

3. We are informed by the learned Counsel for the State that the Petitioner was released on annual leave of 30 days on 17.02.2020 but he did not surrender after expiry of leave on 18.03.2020. An FIR was lodged on 19.03.2020 at Jogighopa Police Station under Section 224 IPC. The Petitioner surrendered on 28.05.2020 and he has undergone sentence of about nine years till date.

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4. The Petitioner has filed the above SLP assailing the judgment of the High Court by which his conviction and sentence under Section 302 IPC was upheld.

5. According to the prosecution, the Petitioner killed his wife on the suspicion of her infidelity. On 24.08.2018, notice was issued by this Court on the question of propriety of specifying rigorous imprisonment while imposing life sentence.

6. As limited notice was issued in both the SLPs, we heard arguments on the point of rigorous imprisonment while convicting a person under Section 302 IPC. Mr. A. Sirajudeen, learned Senior Counsel appearing for the Petitioner in SLP (Crl.) No.6220

of 2018, submitted that the issue is no more res integra as it is covered by a judgment of this Court in ***Naib Singh v. State of Punjab & Ors.***¹

7. Mr. Ajay Marwah, learned counsel appearing for the Petitioner in SLP CrI. No.7110 of 2018, made an attempt to distinguish the judgment in ***Naib Singh*** (supra). Mr. Debojit Borkakati, learned counsel appearing for the State of Assam, relied upon the judgment of this Court in ***Dilpesh Balchandra Panchal v. State of Gujarat***² to submit that the arguments that are advanced in these cases have been considered by this Court earlier and were rejected.

8. In ***Naib Singh*** (supra) the Petitioner was originally sentenced to death for committing an offence of murder under Section 302 IPC. Later, the death sentence was commuted to imprisonment for life by the Government of Punjab. After having undergone sentence of 22 years, Naib Singh filed a Writ Petition under Article 32 of the Constitution of India challenging his continued detention. One of the points argued by the Petitioner relates to sentence of imprisonment for life not to be equated to rigorous imprisonment for life. By taking into account the earlier judgments of this Court in ***Pandit Kishori Lal v. King Emperor***³

¹ (1983) 2 SCC 454

² (1992) 4 SCC 172

³ AIR 1945 PC 64

and ***Gopal Vinayak Godse v. State of Maharashtra***⁴, this Court in Naib Singh's case held that the sentence of imprisonment for life has to be equated to rigorous imprisonment for life. The law laid down by this Court in Naib Singh's was followed by this Court in three judgments ***Dilpesh Balchandra Panchal v. State of Gujarat, Sat Pal alias Sadhu v. State of Haryana***⁵ and ***Mohd. Munna v. Union of India***⁶.

9. In view of the authoritative pronouncements of this Court on the issues that arise for consideration in these SLPs, there is no need to re-examine the limited point for which notice was issued.

10. Therefore, the Special Leave Petitions are dismissed.

.....J.
[L. NAGESWARA RAO]

.....J.
[B.R. GAVAI]

**New Delhi,
September 14, 2021.**

⁴ 1961 3 SCR 440

⁵ (1992) 4 SCC 172

⁶ (2005) 7 SCC 417