



Rarest of the rare case

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Why in news?

A sessions court in kolkata sentenced the convict in the rape and murder of a doctor at RG Kar Medical college and hospital, to life long imprisonment, restraining from a death sentence observing that the case doesn't qualify for the mandate of "Rarest of the rare case"

The Rarest of Rare Test:

Introduction:

- **Capital punishment** (death penalty) in India is reserved for the **rarest of rare cases**. The expression "**rarest of rare**" was coined by the **Supreme Court** in the case of **Bachan Singh v. State of Punjab (1980)**, and it forms the basis of awarding the death penalty.
- The death penalty is awarded only in **exceptionally grave** cases, where the nature of the crime and the offender's conduct are deemed to be of an extreme nature.

Definition and Application:

- There is **no statutory definition** of the term "**rarest of rare**." It depends on the **facts** and **circumstances** of the case, such as:
- The **brutality of the crime**.
- The **conduct** of the offender.
- The **offender's criminal history**.
- **Life imprisonment** is the **default penalty**, while the **death penalty** is applied only in the most extreme cases where **life imprisonment** is deemed insufficient.

Types of Offences Eligible for Death Penalty:

Certain crimes under the **Indian Penal Code (IPC)** can attract a death sentence:

1. **Murder (Section 302)**
2. **Dacoity with Murder (Section 396)**
3. **Criminal Conspiracy (Section 120B)**
4. **Waging War against the Government of India (Section 121)**
5. **Abatement of Mutiny (Section 132)**

Justification for Capital Punishment:

- Capital punishment is justified on the grounds of **deterrence**—by executing convicted murderers, society hopes to prevent potential murderers from committing heinous crimes.

Execution and Commutation:

- The **death sentence** does not automatically result in execution. It can be:

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- **Commuted to life imprisonment** by the courts or the President of India under **Article 72** of the Constitution.
- **Pardoned** by the President, resulting in a lesser sentence.

Rarest of Rare Test:

- The term "rarest of rare" was **officially articulated by the Supreme Court in Bachan Singh v. State of Punjab (1980)**. This ruling emphasized that:
- **Life imprisonment** should be the **default punishment**, and the death penalty should be applied only in cases of **extreme culpability**.
- The **offender's circumstances** (mental health, family background, etc.) must also be considered in conjunction with the severity of the crime.
- The death penalty should be imposed when **life imprisonment** appears insufficient given the **nature and circumstances** of the crime.

Principles from Bachan Singh (1980):

The **Supreme Court** set forth key principles in Bachan Singh:

1. **Extreme Culpability**: The death penalty is only appropriate for the **gravest** crimes.
2. **Aggravating and Mitigating Circumstances**: Courts must weigh both the **aggravating** factors (severity of the crime) and **mitigating** factors (the offender's personal circumstances, such as age or mental health).
3. **Life Imprisonment as the Rule**: Death penalty should be imposed only when **life imprisonment** is deemed an **inadequate punishment**.

Scope and Dimensions of the Rarest of Rare Test:

- The **crime's nature** is viewed from various angles, including:
- **Manner of the crime**: How the crime was committed.
- **Motive**: The reason for the crime.
- **Social harm**: The degree to which the crime is socially abhorrent.
- **Impact on the victim**: The victim's suffering and the personal nature of the crime.
- Courts must carefully evaluate whether the **death penalty** is warranted by the **horrors** of the crime and its **social impact**.

In India, the **death penalty** is reserved for **rarest of rare cases**, based on a thorough evaluation of the crime, the offender's background, and its societal impact. The **Bachan Singh** and **Machhi Singh** rulings have set the legal framework for determining when the death penalty is appropriate, with **life imprisonment** being the default punishment unless exceptional circumstances justify the death sentence.

- The court has reaffirmed the “rarest of rare” standard in several decisions.
- The Report of the **262nd Law Commission**, published in 2015, recommended the “**absolute abolition**” of the death penalty “for all crimes other than terrorism-related offences and waging war”

Constitutional Provisions:

- **Article 21** (Right to Life and Personal Liberty) guarantees the right to life and personal liberty.
 - Any deprivation of this right must follow the procedure established by law.
- **Article 72 and Article 161** provide the **President** and **Governors** with the **power to grant pardons**, reprieves, respites, or remissions of punishment or to suspend, remit, or commute the sentence of any person convicted of any offence.

Judicial Principles:

- **Rarest of the Rare Doctrine:** Established in the landmark case of **Bachan Singh v. State of Punjab (1980)**, the Supreme Court of India held that the death penalty should only be awarded in the "rarest of the rare" cases, where the alternative option is unquestionably foreclosed.
- **Proportionality and Balancing Aggravating and Mitigating Circumstances:** Courts must weigh aggravating circumstances (such as the **nature and gravity** of the crime) against mitigating circumstances (such as the **socio-economic background, age, or mental condition** of the offender) before deciding on the death penalty.
- **Judicial Review and Confirmation:** The death sentence pronounced by a trial court **must be confirmed by the High Court**.
 - Further, the Supreme Court can review the case, and there are provisions for mercy petitions to the President and Governors.

Statutory Provisions:

- **Indian Penal Code (IPC), 1860:** Specifies offences that are punishable by death, including **murder** (Section 302), **treason** (Section 121), **terrorism**-related offences (Section 121A), and others.
- **Code of Criminal Procedure (CrPC), 1973:** Provides procedural safeguards for the accused in death penalty cases, such as the requirement for the sentence to be confirmed by a higher court (Section 366) and the right to appeal (Section 374).

Special Laws: Certain special legislation, such as the **Terrorist and Disruptive Activities (Prevention)**

Act (TADA), **Narcotic Drugs and Psychotropic Substances Act (NDPS)**, and **Protection of Children from Sexual Offences Act (POCSO)**, also prescribe the death penalty for specific crimes.