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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
A.M. KHANWILKAR; SANJAY KISHAN KAUL, JJ.
May 19, 2022

JASWINDER SINGH (DEAD) THROUGH LEGAL REPRESENTATIVE
Versus
NAVJOT SINGH SIDHU & ORS.

Summary: 1988 Road Rage Case -Sentence awarded to Navjot Singh Sidhu enhanced to one year imprisonment - When a 25 year old man, who was an international cricketer, assaults a man more than twice his age and inflicts, even with his bare hands, a severe blow on his (victim's) head, the unintended consequence of harm would still be properly attributable to him as it was reasonably foreseeable - The indulgence was not required to be shown at the stage of sentence by only imposing a sentence of fine and letting him go without any imposition of sentence.

Indian Penal Code, 1860; Section 323 - The hand can also be a weapon by itself where say a boxer, a wrestler or a cricketer or an extremely physically fit person inflicts the same. This may be understood where a blow may be given either by a physically fit person or to a more aged person. *(Para 24)*

Indian Penal Code, 1860 ; Section 323 - Even though any harm might not be directly intended, some aggravated culpability must be attached if the person suffers a grievous hurt or dies as a result thereof. *(Para 32)*

Criminal Trial - Sentencing - Necessity of maintaining a reasonable proportion between the seriousness of the crime and the punishment - While a disproportionately severe sentence ought not to be passed, simultaneously it also does not clothe the law courts to award a sentence which would be manifestly inadequate, having due regard to the nature of the offence, since an inadequate sentence would fail to produce a deterrent effect on the society at large - A long period had lapsed by the time the appeal was decided cannot be a ground to award the punishment which was disproportionate and inadequate. *(Para 25 -32)*

Review Petition (Crl.) No.477 of 2018 in CRL.A. No.60 of 2007 *with* Review Petition (Crl.) No.478/2018 in CRL.A. No.58/2007 Review Petition (Crl.) No.479/2018 in CRL.A. No.59/2007

(Arising out of impugned final judgment and order dated 15-05-2018 in Crl.A. No. No. 60/2007 passed by the Supreme Court of India)

For Petitioner(s) Mr. Sidharth Luthra, Sr. Adv. Mr. Sudhir Walia Adv Ms. Niharika Ahluwalia, Adv Ms. Sneh Kohli, Adv Ms. Shubhangni Jain, Adv Ms. Ambika Atrey, Adv Dr. Abhishek Atrey, AOR Ms. Jyoti Mendiratta, AOR

For Respondent(s). Dr. Abhishek Manu Singhvi, Sr. Adv Mr. Manu Sharma, Adv Ms. Tarannum Cheema, Adv Mr. Amit Bhandari, Adv. Mr. A. Karthik, AOR Mr. Gaurav Khanna, Adv. Ms. Ridhima Mandhar, Adv Mr. Kartik Khanna, Adv. Mr. Vijay Singh, Adv. Mr. R. Basant, Sr. Adv. Mr. A. Karthik, AOR Ms. Smrithi Suresh, Adv. Mr. Saaketh Kasibhatla, Adv Mr. Arsh Khan, Adv. Mr. Akshay Sahay, Adv.

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J U D G M E N T

SANJAY KISHAN KAUL, J.

***Background*:**

1. The original controversy emanates from an FIR dated 27.12.1988 under Section 304/34 of the Indian Penal Code, 1860 (hereinafter referred to as the 'IPC') registered by the Sub-Inspector of P.S. Kotwali of Patiala District, Punjab on the basis of the information given by one Shri Jaswinder Singh (Informant) about an occurrence around 12:30 p.m. at the traffic light of Battian Wala Chowk. The Informant and one Avtar Singh (PW-3 and PW-4 respectively) were travelling with the deceased, Gurnam Singh in a Maruti Car driven by the deceased. Apparently, a dispute arose on the right of way between the accused and the deceased and respondent No.1 (the first accused) came out of his vehicle, pulled out the deceased from his vehicle and inflicted fist blows. As per the Informant his endeavour to intervene resulted even in the second accused (respondent No.2) (not mentioned in the FIR) getting out of the vehicle and giving fist blows to the Informant. It was alleged that the car keys of the deceased's car were removed by the accused and they fled from the scene of occurrence. PW-3 and PW-4 took the deceased in a rickshaw to the hospital where the doctors announced that Gurnam Singh was dead.

2. A post-mortem was conducted by Dr. Jatinder Kumar Sadana (PW-2), who recorded that the injuries were ante-mortem in nature and caused by a blunt weapon though he reserved his opinion on the cause of death as it could apparently be given only after receiving the report of the pathologist. The Pathologist's report dated 09.01.1989 noticed a large number of abnormalities in the condition of the deceased's heart and did not notice any pathology insofar as the brain is concerned. Even after the Pathologist's report, PW-2 did not give a definite opinion regarding the cause of death of Gurnam Singh. Thereafter, PW-2 wrote to the Civil Surgeon, Patiala on 11.01.1989 requesting that the case be referred to Forensic Expert, Government Medical College, Patiala, as a result of which a Medical Board was constituted consisting of six members. Two of these members were examined as PW-1 and PW-2 but a very cryptic opinion was given by PW-1 with disinclination to give any further clarification when sought for by the prosecution.

3. A chargesheet dated 06.03.1989 was filed on 14.07.1989 under Section 304 of the IPC against respondent No.2, exonerating respondent No.1. During the course of trial, the Sessions Court exercised its powers under Section 319 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C.') and after recording the statement of the Informant summoned respondent No.1 to stand trial. The Informant also filed a private complaint against both the accused for commission of offences under Sections 302/324/323 read with Section 34 of the IPC. Both the cases were consolidated and on 20.08.1994 charges under Section 304 Part I were framed against both the accused arising from the FIR. While in the complaint, charges were framed under Section 302 of the IPC against respondent No.1 and under Section 302/34 of the IPC against respondent No.2. Charges under Section 323/34 of the IPC were framed against both the accused for causing hurt to the Informant.

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4. The trial court post trial acquitted both the accused vide judgment dated 22.09.1999. In terms of the judgment of the trial court, the death was not caused by subdural haemorrhage and the deceased suffered sudden cardiac arrest under stress because of which he fell and received two abrasions leading to subdural haemorrhage. The death was caused due to violence but it was not certain as to when precisely Gurnam Singh had died.

5. The State and the complainant both moved the High Court vide separate appeals. The High Court in terms of the judgment dated 01.12.2006 opined that the cases of the two accused were to be considered separately. The High Court convicted respondent No.1 under Section 304 Part II of the IPC based on the testimony of the doctors, PW-1 and PW-2. As per their testimony, the cause of death was cardiac failure and all that they had stated was that the cardiac condition of the deceased was very weak. On the opening of the skull, subdural haemorrhage was present over the left parietal region and brain. It was the haemorrhage which caused the death of the deceased and not the cardiac arrest. Insofar as respondent No.2 is concerned, he was held guilty under Section 304 Part II read with Section 34 of the IPC as well as Section 323 of the IPC.

6. Three criminal appeals were filed before this Court by the two accused and the Informant.

7. The High Court judgment was analyzed by this Court, wherein it was opined that the testimony of the witnesses was trustworthy. Merely because there was a relationship between the Informant, Avatar Singh and the deceased, and more witnesses were not examined, could not have led to a conclusion that the case had not been proved beyond reasonable doubt.

8. The post-mortem report was examined closely which indicated only two external injuries – one on the temporal region and another on the left knee of the deceased, and both were abrasions. The doctors had opined that the second injury could be the result of the fall and, thus, it is most unlikely that a person would simultaneously aim at the head and also the knees of the victim while giving fist blows. Respondent No.1 possibly delivered more than one fist blows while only one of them landed on the head of the deceased and others missed the target. This Court did not agree with the observations of the High Court that the death was caused by subdural haemorrhage and not cardiac arrest. There was stated to be uncertainty regarding the cause of death of Gurnam Singh and no weapon had been used, nor was there any past enmity between the parties, and what happened was the result of an instant brawl.

9. The case against respondent No.2 was held not to have been proved and mere presence of respondent No.2 with respondent No.1 was not sufficient to result in a conviction based on common intention. Even for the offence under Section 323 of the IPC, respondent No.2 was held not guilty.

10. The Court recognized that there were lapses in investigation but then people are not convicted on the basis of doubts. Respondent No.1 was held not guilty of causing the death of Gurnam Singh, and the only conclusion which was found acceptable was of the respondent No.1 causing voluntary hurt to Gurnam Singh which is punishable under

Section 323 of the IPC. It was noticed that respondent No.1 was an international cricketer and a celebrity at the time of the incident and at times there was an endeavour to turn a blind eye to the violations of law committed by celebrities. On the question of sentence, a fine of Rs.1,000/- alone was imposed vide order dated 06.12.2006, since the incident was 30 years old at the time, there was no enmity between the parties and no weapon was used.

On Expanding the Scope of Review Application:

11. A review application was filed by the complainant in which notice was issued on 11.09.2018 limited to the question of enlargement of sentence qua respondent no.1. The matter got delayed as initially the counsel could not enter appearance for the accused. There was a change of counsel and a change of senior counsel. However, when the arguments were addressed, Mr. Luthra, learned senior counsel for the complainant sought to persuade us to enlarge the notice qua the aspect of review as a whole and not limited to the question of sentence.

12. The aforesaid plea was predicated on account of non-consideration of the decision of the co-ordinate Benches of this Court in ***Richpal Singh Meena v. Ghasi***[1] and ***Virsa Singh v. State of Punjab***[2].

13. In ***Richpal Singh Meena***[3] case, a proposition was advanced that cases where a homicide had occurred, but the conviction is only for causing grievous hurt, may even fall even within Section 300 (thirdly) of the IPC and, therefore, would require reconsideration. Several judgments were relied upon on this aspect. After referring to these judgments, the jurisprudential aspect was discussed. In this behalf, it was submitted that there were cases where in spite of death of a person and a finding in some of them of an act of voluntarily causing grievous hurt, this Court has not considered the provisions of Section 299 read with Section 304 of the IPC. It was for the Court to determine on evidence, whether if it is a culpable homicide, it amounts to murder as explained under Section 300 of the IPC or not as explained under Section 304 of the IPC. If culpable homicide cannot be proved, then it will fall in the category of "notculpable homicide". In cases relating to hurt (from Section 319 of the IPC onwards), they do not postulate death as the end result. Apart from this the issue of sentencing was also addressed. It was opined that the Court should not ignore or overlook the question whether the homicide is culpable or not but merely treat the case as one of voluntarily causing grievous hurt punishable under Section 325 or Section 326 of the IPC.

14. The earlier judgment in ***Virsa Singh***[4] case looked into the aspect of intention to inflict the injury that is sufficient to cause death in the ordinary course of nature. In such an eventuality, Section 300 thirdly of the IPC would be unnecessary because the act would fall under the first part of the Section. However, it was also stated that it has to be found that the bodily injury was caused, the nature of injury must be established and

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[1] (2014) 8 SCC 918
[2] 1958 SCR 1495
[3] (supra)
[4] (supra)

whether any vital organs were cut or so forth. Thereafter the focus should shift to the intention to inflict the bodily injury that is found to be present.

15. It was also urged by Mr. Luthra, learned senior counsel for the complainant that the delay of 34 years cannot be a ground to acquit the accused when the delay was not attributable to the complainants or the victims.

16. On the other hand, Dr. Singhvi, learned senior counsel for respondent No.1 sought to emphasise that the incident is 34 years old pertaining to a dispute of right of way. The case had gone through several rounds of scrutiny at several stages and now re-assessing the merits of the case in terms of the charge against the respondent would be subversive of the basic foundations of criminal justice system.

17. On analysis of the aforesaid aspect, we are disinclined to enlarge the notice to something more than the aspect of sentencing. The evidence has been analysed in detail to come to a conclusion as to what is the nature of injury. It has been taken into account that only one blow with bare hands as inflicted by respondent No.1 had landed on the head of the deceased. The finding is that apparently in the fist fight, other blows may have been attempted but did not fall on the material part of the body. Aspects such as lack of post enmity, lack of any weapon used except bare hands and the result of a spontaneous fight over a right of way were also taken into account.

18. We, thus, unequivocally reject the argument for expanding the scope of the review application.

On Enhancement of Sentence:

19. Next we turn to the aspect of review, which persuaded us to issue the notice, i.e., qua the sentence imposed – a fine of Rs.1,000/-. No doubt the conviction is under Section 323 of the IPC relating to causing hurt, which reads as under:

"**323. Punishment for voluntarily causing hurt.—**Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both."

20. The punishment under Section 323 of the IPC has been prescribed as a sentence of a term which may extend to one year or a fine which may extend to Rs.1,000/- or both. In the present case, only the fine has been imposed. The question, thus, to be analysed is whether in the given factual scenario, grave error can be said to have been committed on the issue of sentence by not punishing with imprisonment of any term whatsoever.

21. Learned senior counsel for the complainant urged that the sentence imposed under Section 323 of the IPC was not in line with the principles of sentencing principles and that the observations on sentencing in ***Sunil Dutt Sharma v. State***[5]**,** albeit in the case of a death sentence, would equally apply for lesser offences. It was held that the aggravating and mitigating factors both were required to be considered before deciding the question of sentence, more so when the judgment of the High Court is sought to be

[5] (2014) 4 SCC 375.

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upset, on the provisions under which it is based. The sentence imposed, it was urged, should be proportionate to the offence and should take into account the deterrence aspect. There cannot be leniency in sentencing when the hurt/injury has resulted in death, nor can the delay in trial be taken into account which was not attributable to the complainants. Respondent No.1 at the relevant time was a young man of 25 years, who was playing international cricket and was athletically physically fit. He is expected to know the effect of any blow to be inflicted by him, more so, when on the opposite side the man is aged about 65 years (more than his father's age and elder to him by 40 years). Thus, it was urged that simply because it was a spontaneous incident where no weapon was used, the same cannot be a ground to inflict minimal and innocuous punishment of fine of Rs.1,000/-.

22. On the other hand, learned senior counsel for respondent No.1 urged that a review petition on the quantum of sentence was not maintainable. He sought to place reliance on the judgment of this Court in ***Parvinder Kansal v. State of NCT***[6] and ***Mallikarjun Kodagali v. State of Karnataka & Ors.***[7] His submission was that the victim's right to appeal ought to be restricted to only three eventualities, i.e., acquittal of the accused, conviction for lesser offence, or for imposing inadequate compensation, but there was no provision of appeal for the victim to question the quantum of sentence as inadequate. Such a right was available under Section 377 Cr.P.C. for the State.

23. Learned senior counsel also relied upon the judgment of this Court in ***Manohar Singh v. State of Rajasthan***[8] to contend that even a fine is fully adequate without any incarceration when there is a prolonged time since the date of occurrence.

Our View:

24. We have given our thought to the matter. In our view, some material aspects which were required to be taken note of appear to have been somehow missed out at the stage of sentencing, such as the physical fitness of respondent No.1 as he was an international cricketer, who was tall and well built and aware of the force of a blow that even his hand would carry. The blow was not inflicted on a person identically physically placed but a 65 year old person, more than double his age. Respondent No.1 cannot say that he did not know the effect of the blow or plead ignorance on this aspect. It is not as if someone has to remind him of the extent of the injury which could be caused by a blow inflicted by him. In the given circumstances, tempers may have been lost but then the consequences of the loss of temper must be borne. In fact, this Court to some extent had been indulgent in ultimately holding respondent No.1 guilty of an offence of simple hurt under Section 323 of the IPC. The question is whether even on sentence, mere passage of time can result in a fine of Rs.1,000/- being an adequate sentence where a person has lost his life by reason of the severity of blow inflicted by respondent No.1 with his hands. The hand can also be a weapon by itself where say a boxer, a wrestler or a cricketer or an extremely physically fit person inflicts the same. This may be understood where a blow may be

[6] 2020 SCCOnline SC 685
[7].(2019) 2 SCC 752
[8].(2015) 3 SCC 449

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given either by a physically fit person or to a more aged person. Insofar as the injury caused is concerned, this Court has accepted the plea of a single blow by hand being given on the head of the deceased. In our view, it is this significance which is an error apparent on the face of the record needing some remedial action.

25. We would like to deliberate a little more in detail on the necessity of maintaining a reasonable proportion between the seriousness of the crime and the punishment. While a disproportionately severe sentence ought not to be passed, simultaneously it also does not clothe the law courts to award a sentence which would be manifestly inadequate, having due regard to the nature of the offence, since an inadequate sentence would fail to produce a deterrent effect on the society at large. Punishments are awarded not because of the fact that it has to be an eye for an eye or a tooth for a tooth, rather having its due impact on the society; while undue harshness is not required but inadequate punishment may lead to sufferance of the community at large.[9]

26. An important aspect to be kept in mind is that any undue sympathy to impose inadequate sentence would do more harm to justice system and undermine the public confidence in the efficacy of law. The society can not long endure under serious threats and if the courts do not protect the injured, the injured would then resort to private vengeance and, therefore, it is the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed.[10] It has, thus, been observed that the punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated.[11]

27. A three Judges Bench of this Court in ***State of Karnataka v. Krishnappa***[12] while discussing the purpose of imposition of adequate sentence opined in para 18 that "*.....Protection of society and deterring the criminal is the avowed object of law and that is required to be achieved by imposing an appropriate sentence.*"

28. The sentencing philosophy for an offence has a social goal that the sentence has to be based on the principle that the accused must realise that the crime committed by him has not only created a dent in his life but also a concavity in the social fabric.[13] While opportunity to reform has to be kept in mind, the principle of proportionality also has to be equally kept in mind.

29. Criminal jurisprudence with the passage of time has laid emphasis on victimology, which fundamentally is a perception of a trial from the viewpoint of the criminal as well as the victim. Both are viewed in the social context and, thus, victim's rights have to be equally protected[14]. It would be useful to rely on the observations of this Court in ***Gopal***

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[9] Jai Kumar v. State of Madhya Pradesh (1999) 5 SCC 1.
[10] Sumer Singh v. Surajbhan Singh (2014) 7 SCC 323.
[11] Ravji v. State of Rajasthan (1996) 2 SCC 175.
[12] (2000) 4 SCC 75.
[13] Shyam Narain v. State (NCT of Delhi) (2013) 7 SCC 77.
[14] Rattiram v. State of M.P. (2012) 4 SCC 516.

Singh v. State of Uttarakhand[15] that just punishment is the collective cry of the society and while collective cry has to be kept uppermost in mind, simultaneously the principle of proportionality between the crime and punishment cannot be totally brushed aside. Thus, the principle of just punishment is the bedrock of sentencing in respect of a criminal offence. No doubt there cannot be a straitjacket formula nor a solvable theory in mathematical exactitude. An offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in a court. Similarly, in ***Alister Anthony Pareira v. State of Maharashtra***[16], the twin objective of the sentencing policy to be kept in mind was emphasised as deterrence and correction and, thus, principle of proportionality in sentencing a convict were held to be well entrenched in the criminal jurisprudence.

30. We may also take note of the recent judgment of this Court decided by a three Judges bench on 18.04.2022 in ***Jagjeet Singh & Ors. v. Ashish Mishra @ Monu & Anr.***[17] albeit, on the issue of bail. It emphasised the victim's right to be heard. What is relevant for us to note is that the victim being the *de facto* sufferer of a crime had no participation in the adjudicatory process. The current ethos of criminal justice dispensation to prevent and punish crime had surreptitiously turned its back on the victim. No doubt in the present case at every stage the victim has been heard and the present application is also by the victim. The near and dear ones whether as guardians or legal heirs are required to be treated as victims. It was, thus, observed in para 23 as under:

"*23. It cannot be gainsaid that the right of a victim under the amended Cr.P.C. are substantive, enforceable, and are another facet of human rights. The victim's right, therefore, cannot be termed or construed restrictively like a brutum fulmen. We reiterate that these rights are totally independent, incomparable, and are not accessory or auxiliary to those of the State under the Cr.P.C. The presence of 'State' in the proceedings, therefore, does not tantamount to according a hearing to a 'victim' of the crime.*"

31. In the similar vein in Criminal Appeal No.579/2022 titled ***State of Rajasthan v. Banwari Lal & Anr.***[18], this Court has again frowned upon the tendency of courts to reduce the sentence to the period already undergone. An earlier judgment of this Court in ***Soman v. State of Kerala***[19] was referred to, more specifically para 27, which reads as under:

"*27.1. Courts ought to base sentencing decisions on various different rationales — most prominent amongst which would be proportionality and deterrence.*

27.2. The question of consequences of criminal action can be relevant from both a proportionality and deterrence standpoint.

[15] (2013) 7 SCC 545.
[16] AIR 2012 SC 3802
[17] 2022 SCC OnLine SC 453
[18] Decided on 8.4.2022.
[19] (2013) 11 SCC 382.

27.3. Insofar as proportionality is concerned, the sentence must be commensurate with the seriousness or gravity of the offence.

27.4. One of the factors relevant for judging seriousness of the offence is the consequences resulting from it.

27.5. Unintended consequences/harm may still be properly attributed to the offender if they were reasonably foreseeable. In case of illicit and underground manufacture of liquor, the chances of toxicity are so high that not only its manufacturer but the distributor and the retail vendor would know its likely risks to the consumer. Hence, even though any harm to the consumer might not be directly intended, some aggravated culpability must attach if the consumer suffers some grievous hurt or dies as result of consuming the spurious liquor."

32. We find the observations in para 27.5 as quoted above of some significance in the context of the facts of the present case. Thus, when a 25 year old man, who was an international cricketer, assaults a man more than twice his age and inflicts, even with his bare hands, a severe blow on his (victim's) head, the unintended consequence of harm would still be properly attributable to him as it was reasonably foreseeable. That it would cause the death of a person is another matter since the conviction is only under Section 323 of the IPC. In that context it has been observed that even though any harm might not be directly intended, some aggravated culpability must be attached if the person suffers a grievous hurt or dies as a result thereof. Another similarity in terms of the facts of the case at hand and that of *Soman*[20] is that the Court was not greatly influenced by the fact that 26 years had passed since the incident and observed that because a long period had lapsed by the time the appeal was decided cannot be a ground to award the punishment which was disproportionate and inadequate.

33. Among the factors to be taken note of are the "defenceless and unprotected state of victim" appropriate in the facts of the present case.

34. The US Supreme Court has also moved in the same direction in ***Payne v. Tennessee***[21] while examining the aspect of the "victim impact statement" in a case of capital offence at the time of sentencing. The court considered the aspect from the dissenting judgment in the case of ***Booth v. Maryland***[22] which emphasized on "reminding the sentencer that just as the murderer should be considered as an individual, so too the victim is an individual whose death represents a unique loss to society and in particular to his family." The words of Justice Benjamin Cardozo in ***Snyder v. Massachusetts***[23] bring out that "justice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true."

35. Thus, a disproportionately light punishment humiliates and frustrates a victim of crime when the offender goes unpunished or is let off with a relatively minor punishment

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[20] (supra)
[21] 501 US 808 (1991)
[22] 482 U.S. 496 (1987)
[23] 291 US 97 (1934)

as the system pays no attention to the injured's feelings. Indifference to the rights of the victim of crime is fast eroding the faith of the society in general and the victim of crime in particular in the criminal justice system.[24]

36. We noticed the aforesaid judgments to repel the contention of learned senior counsel for the respondent that the victim should have no say in the matter of enhancement of sentence.

37. In a nutshell, the aspects of sentencing and victimology are reflected in the following ancient wisdom:

"यथावयो यथाकालं यथा प्राणं च ब्राह्मणे ।
प्रायश्चितं प्रदातव्यं ब्राह्मणैर्धर्म पाठकैः ।
येन शुध्दिमवाप्नोति न च प्राणैर्वियुज्यते ।
आर्तिं वा महतीं यति न चैतद् व्रतमा दिशेत ।।"

It means: The person dispensing justice as per Dharmashastra should prescribe a penance appropriate to the age, the time and strength of the sinner, the penance being such that he may not lose his life and yet he may be purified. A penance causing distress should not be prescribed.

38. We are not setting forth much about how the investigation proceeded initially, how the court had to intervene to see that the relevant people are charged, the manner of leading of evidence, the hesitancy of doctors all of which weighed in this Court opining that a case beyond reasonable doubt could be only of one under Section 323 of the IPC. We do believe that the indulgence was not required to be shown at the stage of sentence by only imposing a sentence of fine and letting the respondent go without any imposition of sentence.

39. The present case is not one where two views are possible such that review should not be exercised. It is a case where some germane facts for sentencing appear to have been lost sight of while imposing only a fine on respondent No.1 and, therefore, no question of choosing between two possible views arises

<u>Conclusion</u>:

40. The result of the aforesaid is that the review applications/petitions are allowed to the aforesaid extent and in addition to the fine imposed we consider it appropriate to impose a sentence of imprisonment for a period of one year rigorous imprisonment to be undergone by respondent No.1. The parties are left to bear their own costs.

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[24] Shri P. Babulu Reddy Foundation Lecture, Victims of Crime – The Unseen Side by Dr. Justice A.S. Anand, Judge, Supreme Court of India (as he then was) (1998) 1 SCC (Jour) 3. Delivered at Hyderabad on 28th September 1997.