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## CASE COMMENT: BACHAN SINGH V. STATE OF PUNJAB

*PRIYANSH TYAGI*

**Case Title:** Bachan Singh v. State of Punjab

**Citation:** AIR 1980 SC 898

**Court:** Supreme Court of India

**Date:** May 9, 1980

**Coram:** Y.V. Chandrachud (C.J.), A.C. Gupta, N.L. Untwalia, R.S. Sarkaria, and P.N. Bhagwati

### INTRODUCTION

Bachan Singh v. State of Punjab stands as the Watershed judgement in Indian criminal jurisprudence on the constitutional validity of Death Penalty in India. This case is widely regarded as a landmark judgement for establishing “Rarest of the rare doctrine”

### FACTS

Bachan Singh was tried and convicted by Sessions Court for the brutal murders of three individuals. He was sentenced to death under Section 302 of the Indian Penal Code (Murder). When this matter went in appeal, the High Court confirmed his conviction and the death sentence. Bachan Singh then approached the Supreme Court by Special leave petition challenging the constitutional validity of the death penalty under Section 302 of IPC and also raised a question that whether the facts found by the lower courts constituted "special reasons" to award the extreme penalty of death as mandated by Section 354(3) of the Code of Criminal

Procedure (CrPC), 1973. Multiple writ petitions on this topic were clubbed together and referred to a five-judge Constitution Bench.

## **ISSUES**

1. Whether the death penalty provided for the offence of murder under Section 302 of the Indian Penal Code is unconstitutional for being violative of Articles 14, 19, and 21 of the Constitution?
2. Whether the sentencing procedure given in Section 354(3) of the CrPC, 1973, is unconstitutional on the grounds that it invests courts with unguided and untrammelled discretion, potentially leading to the arbitrary or freakish imposition of the death sentence.

## **ARGUMENTS**

### **i) Appellant's Arguments**

- According to the appellant, the death penalty violates the right to life, which is a necessary condition for enjoying all six of the fundamental liberties guaranteed by Article 19(1).
- The appellant argued that the death penalty is a cruel, unusual, and degrading form of punishment that takes a person's life in an unreasonable and arbitrary manner, citing the expanded scope of Article 21 following the Maneka Gandhi ruling.
- The appellant further argued that the entire process is extremely subjective and in violation of Article 14 since Section 354(3) of the CrPC assigns the judiciary the responsibility of defining "special reasons" without providing any logical guidelines.
- The appellant further argued that there is no real deterrent value to the death penalty.

### **ii) Respondent's Arguments**

- The State pointed out that the designers of the Constitution have implicitly recognized the death penalty. Articles 72(1)(c), 161, and 134 specifically

refer to the death sentence and the respective powers to commute or appeal it.

- The changeover from the 1898 CrPC to the 1973 CrPC marked a transition in legislative policy. Section 354(3) specifically provides that life imprisonment shall be the rule and the death penalty an exception based on "special reasons." Moreover, Section 235(2) requires a split trial, permitting a pre-sentence hearing.
- The State submitted that in the case of very grave offenses, the death penalty serves as a necessary deterrent and also satisfies the righteous indignation of society.
- The discretion accorded to the judiciary is not unlimited but is to be exercised judicially, based on well-settled judicial principles and subject to strict appellate scrutiny.

## **JUDGEMENT**

The Supreme Court delivered a 4:1 majority judgment which was authored by Justice R.S. Sarkaria, and Justice P.N. Bhagwati dissented.

### **On Issue- 1**

The death penalty's constitutionality was maintained by the Supreme Court. The Court decided that since penal laws specifically address crimes rather than limiting fundamental rights, punishing someone for murder does not directly violate the fundamental freedoms guaranteed under Article 19(1). Regarding Article 21, the Court ruled that a person's right to life is not unqualified and that their life may be taken from them as long as the legal process is "fair, just, and reasonable." Additionally, the Court noted that by giving the President and Governors the authority to commute or pardon death sentences under Articles 72 and 161, the framers of the Constitution implicitly acknowledged the existence of the death penalty.

### **On Issue- 2**

The Court upheld the sentencing process, observing a marked shift in the legislative intent in the 1973 Code, where life imprisonment is prescribed as the general rule in murder cases, and the death penalty is a mere exception, where the judge is required to record "special reasons." The Court made it clear that before arriving at a decision on the punishment, the judge is required to take into account both the gravity of the crime and the particular socio-economic background and mentality of the offender. To avoid arbitrary applications of judicial discretion, the Supreme Court formulated the defining principle of the death penalty, holding that the death penalty is to be awarded only in the "*rarest of rare cases* where the other option is clearly ruled out"

### **Dissenting Opinion**

Justice P.N. Bhagwati delivered a profound dissenting opinion, declaring the death penalty entirely unconstitutional. He argued that taking a human life is an irrevocable act, and the legal system can never be completely free from the terrifying risk of judicial error and the execution of an innocent person. He strongly criticized Section 354(3) CrPC for lacking legislative guidelines, arguing that it leaves too much unfettered power in the hands of individual judges, which makes the imposition of the death sentence a "freakish," discriminatory, and arbitrary gamble depending heavily on the subjective social philosophy of the presiding judge .

### **ANALYSIS**

The judgment in *Bachan Singh v. State of Punjab* is a foundational ruling in Indian criminal law, where the Supreme Court upheld the constitutional validity of the death penalty while introducing the "rarest of rare" doctrine. The Court held that capital punishment should be imposed only in exceptional circumstances, after carefully balancing aggravating and mitigating factors. It emphasized that sentencing must consider not only the gravity of the crime but also the circumstances of the offender, thereby promoting individualized justice.

Notably, the Court chose not to rigidly define the scope of the doctrine. This approach acknowledged the complexity of human behavior and allowed judicial discretion to play a meaningful role. In a positive sense, this flexibility ensures that courts can adapt the doctrine to diverse factual situations, making the application of justice more nuanced and context-sensitive.

Building upon this framework, the Supreme Court in *Machi Singh v. State of Punjab* sought to provide further clarity to the doctrine. The Court introduced the concept of the “collective conscience of society” and outlined five broad categories to guide sentencing decisions:

- manner of commission of the crime,
- motive,
- anti-social or socially abhorrent nature of the crime,
- magnitude of the crime, and
- personality of the victim.

These guidelines were intended to assist courts in identifying cases that may fall within the “rarest of rare” category, thereby promoting greater consistency in capital sentencing.

Together, these judgments create a structured yet flexible framework. While *Bachan Singh* establishes the constitutional and philosophical foundation, *Machi Singh* supplements it with practical indicators. The doctrine’s inherent subjectivity, when applied carefully, allows judges to account for the uniqueness of each case, ensuring that justice is both principled and responsive to real-world complexities.