

Vasanta Sarmpal Dapare v Union of India

Petitioner and Respondents

- Vasanta Sarmpal Dapare (Petitioner)
- Union of India & Ors. (Respondents)

Challenge Basis

- Continued validity of death sentence
- Reconsideration in light of new guidelines
- Munaj and others v. State of Madhya Pradesh

Facts of the Case

- The Crime (April 3, 2008)
 - Lured 4-year-old girl
 - Sexual assault and strangulation
 - Attempted body concealment
- Arrest & Charge Sheet (April 4, 2008)
 - FIR registered
 - Arrested April 4, 2008
 - Offences under IPC Sections 302, 307, 376(2)(b), 302, 303
- Initial Conviction & Death Sentence (Sept 26, 2010)
 - Additional Sessions Judge, Nagpur
 - Convicted and death sentence imposed
 - Legal-aid counsel issues
 - Unable to afford private counsel
 - Controlled absence on crucial dates
 - Four material witnesses not cross-examined
- High Court Remand (March 24, 2011)
 - Set aside conviction and sentence
 - Denied effective defence
 - Remanded for cross-examination of in-criminated witnesses
- Second Conviction & Death Sentence (Feb 23, 2012)
 - Same legal-aid counsel represented
 - Four witnesses cross-examined
 - Controlled absence at sentencing hearing
 - Re-imposed death sentence
 - Mitigating circumstances noted
 - Age around 45 years
 - Family dependants
- High Court & Supreme Court Affirmation
 - High Court (March 27, 2012) affirmed
 - Supreme Court (Nov 26, 2014) dismissed appeal, confirmed death sentence
 - Mitigating circumstances presented (2014)
 - Youth
 - Probability of reformation
- Review Petition Dismissed (May 3, 2017)
 - Submitted limited additional material
 - Education, prison activities, disciplinary record
 - Supreme Court upheld earlier decision
 - Aggravating circumstances outweighed mitigating

Many Petitions Rejected

- Governor of Maharashtra (Dec 26, 2017)
 - Rejected Feb 1, 2022
 - Communicated March 30, 2022
- President of India (July 1, 2022)
 - Enclosed new medical records, psychologist report
 - Rejected April 18, 2023
 - Intimation June 15, 2023

Subsequent Legal and Medical Developments

- Challenges to Hanging (Rishabh Mathema v. Union of India)
 - Admitted by Supreme Court Oct 6, 2017
 - Remains sub-judice
 - Union of India to constitute expert committee on alternate mode
- Necessity of Comprehensive Mitigation Material
 - Infra (g) Bhaya v. State of Madhya Pradesh (March 29, 2022)
 - Directed Smta Manu With Petition (CIVIL No. 1 of 2022)
 - Constitution Bench reference (Sept 19, 2022)
 - Possible uniform sentencing framework
 - Modellies for psychological evaluation and mitigation collection
 - Dapare's case cited as illustrative of incommensurates
- Vasanta Sarmpal Dapare's Medical Condition
 - Detailed medical records (Dapare Central Jail)
 - Independent psychiatric (2017 opinions)
- Munaj (supra) Guidelines (May 28, 2022)
 - Formulated practical, time-bound guidelines
 - Obliges Trial Courts and State to place extensive mitigation
 - Psychiatric, psychological, social-history, jail-conduct reports
- Psychometric Testing (June 17, 2022)
 - Conducted by Mr. Suresh Bhoop (Clinical Psychologist)
 - Diagnosed Specific Learning Disability (SLD)
 - Low intellectual functioning
 - Long-standing trauma
 - Organic brain injury

Current Petition (Article 32)

- Seeking reconsideration of death sentence
- Sentence affirmed without Munaj (original protocol)
- New medical evidence demonstrates conditions
 - Specific Learning Disability
 - Low intellectual functioning
 - Chronic frontal-lobe infarct
 - Cervical myelopathy
 - Major depressive disorder with psychotic features
- Conditions attract protective umbrella
 - Rights of Persons with Disabilities Act, 2016
 - Mental Healthcare Act, 2017
- No reasonable accommodation or specialized assistance provided

Supreme Court's Decision in Dapare Case

- Respected sentencing phase for death row convict
- Used extraordinary jurisdiction under Article 32
- Allowed fresh hearing solely on the sentence
- Power serves as continuing safeguard in capital cases
- Upheld fundamental rights (Articles 14, 21)
- Retrospective application of judicial decisions (Munaj supra)
 - Declare what the law always was
 - Especially beneficial provisions for fundamental rights
- Power reserved for session benches for procedural safeguards