

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s).1963 OF 2012  
[@ Special Leave Petition(Crl) No.8150 of 2008]

DNYANESHWAR HAIBHAU KULAL

Appellant(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

O R D E R

1. Leave granted.
2. This appeal is directed against the judgment and order dated 11<sup>th</sup> January, 2008, passed by the Bombay High Court in Criminal Appeal No.464 of 2007, along with Confirmation Case No.1 of 2007.
3. The Confirmation Case was filed by the State of Maharashtra, seeking confirmation of the death penalty imposed upon the appellant, Dnyaneshwar Haibhau Kulal, in Sessions Case No.2 of 2006, by the Sessions Judge, Satara, on 18<sup>th</sup> November, 2006, for the offence punishable under Section 302 of the Indian Penal Code.
4. According to the prosecution case, the

appellant was convinced that the deceased Dhondiram used black magic, due to which his father Haribhau had expired. On 3<sup>rd</sup> September, 2004, PW-5, Genba, gave a missing report regarding Dhondiram and, thereafter, on the basis of a FIR lodged by the PW-7, Tanaji, Criminal Case bearing No.64 of 2004, for offences alleged to have been committed under Sections 302 and 201 of the Indian Penal Code, was registered against the appellant.

5. From the evidence of PW-7, Tanaji Dhondiram Kulal, son of the deceased, it appears that on 2<sup>nd</sup> September, 2004, news was received that in the field near "Sanand" a headless body had been found. On reaching there, P.W.7 identified the body to be that of Dhondiram and, thereafter, complaint was lodged, being FIR Crime No.64 of 2004, under Sections 302 and 201 of the Indian Penal Code. Subsequently, on 27<sup>th</sup> October, 2004, some other articles, including a skull, were recovered from the field known as Jotibacha Inam. Thereafter, after investigation, the Investigating Officer filed chargesheet against the appellant, sent him to trial for having allegedly committed the murder of Dhondiram.

6. PW-6, Dashrath Bhau Kachare, is the main witness on whom the prosecution relies, since there

are no other witnesses to the incident. According to the said witness, the appellant met him when he was in the field and took out the head of the deceased from a gunny bag, which he was carrying claiming that he had cut off the head from the deceased after killing him.

7. Relying mainly on the said evidence, and the circumstantial evidence, which had been gathered, the learned Sessions Judge convicted the appellant under Section 302 read with Section 201 Indian Penal Code and upon holding that this was one of those rarest of rare cases awarded the death penalty to the appellant, which subsequently, came before the High Court for confirmation.

8. Accepting the decision of the trial court, the High Court while confirming the conviction of the appellant, also upheld the death sentence awarded to him by the trial court, in the circumstances mentioned in paragraph 45 of the impugned judgment. As many as 11 reasons have been given by the High Court to hold that this was one of such rarest of rare cases, which merited the death penalty.

9. We have carefully perused the said reasons and while there is no doubt that the murder appears to have been committed in a highly depraved manner, this does not, in our view, bring the incident within the

concept of rarest of rare cases, for being awarded the death penalty.

10. Accordingly, while confirming the conviction of the appellant under Section 302 read with Section 201 IPC, we modify the sentence awarded to the appellant and alter the death sentence awarded to him to one of life sentence.

11. The appeal is allowed to the aforesaid extent.

.....CJI.  
(ALTAMAS KABIR)

.....J  
(J.CHELAMESWAR)

NEW DELHI;  
November 30, 2012.

JUDGMENT

ITEM NO.202

COURT NO.1

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl) No(s).8150/2008

(From the judgement and order dated 11/01/2008 in CRLA No.464/2007,  
of The HIGH COURT OF BOMBAY)

DNYANESHWAR HAIBHAU KULAL

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(With appln(s) for exemption from filing O.T.,permission to file  
additional documents and office report )  
( for final disposal )

Date: 30/11/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s) Ms. Minakshi Vij,AOR.(SCLSC)

For Respondent(s) Mr. Mike P.Desai, Adv.  
Ms. Asha Gopalan Nair,AOR.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed in terms of the signed  
order.

(Sheetal Dhingra)  
COURT MASTER

(Juginder Kaur)  
Assistant Registrar

[Signed order is placed on the file]

SUPREME COURT OF INDIA



JUDGMENT