



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. _____ OF 2026

(Arising out of SLP(Crl.) No.3407 of 2026)

EHSAAN

...APPELLANT(S)

VERSUS

**STATE OF NATIONAL CAPITAL
TERRITORY OF DELHI**

...RESPONDENT(S)

J U D G M E N T

SANJAY KAROL, J.

*“By deft modulation of sentencing process be stern where it should be, and
tempered with mercy where it warrants to be.”*

K. Ramaswamy J.¹

1. Leave Granted.

¹ Sevaka Perumal v. State of T.N., (1991) 3 SCC 471
Crl.App.No..../2026 @ SLP(Crl)No.3407 of 2026

2. Ehsaan, the appellant-convict is aggrieved by judgment and order dated 1st November 2017² by the High Court of Delhi which affirmed the finding of conviction and sentence returned in terms of orders dated 7th June 2017 and 9th June 2017 by the Additional Sessions Judge³, Tis Hazari Courts, Delhi under Section 376-D Indian Penal Code, 1860⁴. The sentence awarded was rigorous imprisonment for life that is till the remainder to natural life and payment of a fine of Rs.25,000 to the victim, PW-2, in default whereof simple imprisonment for two years. The context in which the aforesaid sentence came to be eventually imposed was that a call was received at the Police Station, I.P. Estate, New Delhi, that by the first informant ‘*benami*’ that two accused persons had committed rape on the victim PW-2. She had, at night-time took a rickshaw from the Delhi Railway Station on the assurance that the driver would drop her off at her home but instead of doing so, he took her to a deserted place where another person was already present and they proceeded to commit the offence of rape, leading to the registration of FIR No.0411 dated 7th September 2016.

3. At the outset, it may be noted that while issuing notice on 5th January 2026, this Court refused to interfere with the conviction and issued notice only confined to the quantum of sentence.

4. The Trial Court in imposing the sentence of remainder of natural life considered the judgments of this Court in *inter alia* ***State of Punjab v. Saurabh Bakshi***⁵; ***Gopal Singh v. State of Uttarakhand***⁶; ***State of Punjab v. Bawa Singh***⁷. The reasoning to come to the finding of guilt was based on the evidence of the

² Criminal Appeal No.814 of 2017

³ Trial Court

⁴ IPC

⁵ (2015) 5 SCC 182

⁶ (2013) 7 SCC 545

⁷ (2015) 3 SCC 441

Crl.App.No..../2026 @ SLP(Crl)No.3407 of 2026

victim, PW-2 and witness PW8 discussed in para 9 to 16 and 25 to 28 of the Trial Court judgment. The paragraphs dealing with the sentence are as follows:

“...After going through the aforesaid conceptus of judgment of Hon’ble Supreme Court, it is clear that both the convicts committed a heinous crime of gang rape on a hapless lady who had forgot her way to her destination. Instead of helping her accused Ehsaan induced her to accompany him to the place of incident on the pretext of dropping her at her destination where his associate co-accused Umesh Giri joined him & they both in furtherance of their common intention committed gang rape on her.

Hence, considering the manner of commission of offence, brutality inflicted by accused persons in injury and act of both the convicts and submissions of the parties, I am of the opinion that ends of justice would only meet if the convicts namely Umesh Giri and Ehsaan are sentenced as under:

For offence punishable under section 376-D IPCC, the above named convicts are sentenced to undergo Rigorous Imprisonment for life which shall mean imprisonment for the remainder of convicts natural life, in addition to payment of fine of Rs. 25,000/- each, to be paid to the victim and default whereof, they shall also undergo two years S.I...”

The High Court has independently considered the evidence of record and recorded its agreement, *in toto* with the Trial Court.

5. Heard learned counsel for the appellant and learned ASG for the respondent and perused the written submissions.

6. The offence committed upon the victim is, without any manner of doubt, grave. We are only to examine whether the sentence concurrently imposed upon him, satisfies the doctrine of proportionality or not, in the attending facts and circumstances of this case. As such, a brief foray into the doctrine and its application would be justified.

6.1 ***P.N. Bhagwati J.*** as he then was in his dissenting opinion on the aspect of constitutionality of the death penalty provided under Section 302 IPC ***Bachan Singh v. State of Punjab***⁸, held as under:

“36. Now it is an essential element of the rule of law that the sentence imposed must be proportionate to the offence. If a law provides for imposition of a sentence which is disproportionate to the offence, it would be arbitrary and irrational, for it would not pass the test of reason and would be contrary to the rule of law and void under Articles 14, 19 and 21. The principle of proportionality is implicit in these three Articles of the Constitution. If, for example, death penalty was prescribed for the simple offence of theft — as indeed it was at one time in the seventeenth century England — it would be clearly excessive and wholly disproportionate to the offence and hence arbitrary and irrational by any standards of human decency and it would be impossible to sustain it against the challenge of these three Articles of the Constitution. It must therefore be taken to be clear beyond doubt that the proportionality principle constitutes an important constitutional criterion for adjudging the validity of a sentence imposed by law.

6.2 ***Surya Kant J.*** (as he then was) in ***Surinder Singh v. State (UT of Chandigarh)***⁹ discussed the doctrine of proportionality in the following terms:

“...
34. The equality of ratio between two sets of variables is now well known as the doctrine of proportionality. The bedrock of sentencing policy in our criminal justice system is also based on the axiom of proportionality. This principle of commensurate sentencing treats offenders as agents capable of evaluating their own illegal conduct and the social censure associated with it, which is communicated to them by imposing a proportionate sentence. [Andrew Ashworth, *Sentencing and Criminal Justice* (5th Edn., Cambridge University Press 2010)] The exercise for assessing “proportionality” is thus dependent upon the gravity of the offence which is determined according to — (a) mischief caused or risk involved in the offence; (b) the overall conduct of the offender and; (c) motives ascribed to the felon. Further, the equality of treatment so as to eliminate discriminatory practices in the award of sentencing, is integral to the canons of proportionality. Needless to say, the guarantee of even-handedness before the law(s), as enshrined in Article 14 of our

⁸ (1982) 3 SCC 24

⁹ (2021) 20 SCC 24

Constitution, encompasses the administration of criminal justice system as well.

35. Having said that, we cannot be incognizant of the fact that there are practical difficulties in achieving absolute consistency in regards to sentencing. It must be candidly acknowledged that there is an element of discretion present while adjudicating the issue of sentence, however, the same cannot be exercised in an unprincipled manner. This Court has explicitly ruled out the practice of awarding disproportionate sentences, especially those that showcase undue leniency, for it would undermine the public confidence in efficacy of law.

36. The sentencing policy, therefore, keeps pace with changing time. Undoubtedly, the primary emphasis while deciding the quantum of sentence should lie on the gravity or penal value of the offence. However, other guiding elements of rehabilitative justice model, including, appreciation of grounds for mitigation of sentence also deserve to be duly considered within the permissible limits of judicial discretion. The awarding of just and proportionate sentence remains the solemn duty of the courts and they should not be swayed by non-relevant factors while deciding the quantum of sentence. Naturally, what factors should be considered as “relevant” or “non-relevant” will depend on the facts and circumstances of each case, and no straitjacket formula can be laid down for the same.”

6.3 In *State of Karnataka v. Krishnappa*¹⁰ three judge Bench of this Court observed as follows to the effect that a retributive view in cases involving the offence of rape is entirely justified:

“18. ...The measure of punishment in a case of rape cannot depend upon the social status of the victim or the accused. It must depend upon the conduct of the accused, the state and age of the sexually assaulted female and the gravity of the criminal act. Crimes of violence upon women need to be severely dealt with. The socio-economic status, religion, race, caste or creed of the accused or the victim are irrelevant considerations in sentencing policy. 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. The sentencing courts are expected to consider all relevant facts and circumstances bearing on the question of sentence and proceed to impose a sentence commensurate with the gravity of the offence. Courts must hear the loud cry for justice by the society in cases of the heinous crime of rape on innocent helpless girls of tender years, as in this case, and respond by imposition of proper sentence. Public abhorrence

¹⁰ (2000) 4 SCC 75
Crl.App.No..../2026 @ SLP(Crl)No.3407 of 2026

of the crime needs reflection through imposition of appropriate sentence by the court. ...”

The view above was referred to by a Bench of equal strength in ***Shimbhu v. State of Haryana***¹¹.

6.4 When a sentence is imposed on an offender, it is done so with *tri*-fold purpose i.e. punitive, deterrent and protective. The overall objective is to rid the society of criminal proclivity. The same is done by ensuring that the sentence imposed is proportional to the offence or in other words not overly influenced by the possibility of reformation and instead, striking a judicious balance between the interest of the victim, society and the accused, after following the due process of law. We have considered a number of other judgments also *inter-alia* ***Allauddin Mian v. State of Bihar***¹²; ***Navas v. State of Kerala***¹³; ***Sevaka Perumal v. State of T.N***¹⁴; and ***Parsuram v. State of M.P.***¹⁵. The following aspects reveal themselves when viewed from the lens of imposition of sentence. It must:

- (a) Be in accordance with the nature and gravity of the crime;
- (b) Adequately protect the interest of the society;
- (c) Take into account the deterrent purpose of punishment;
- (d) Consider the motive behind the crime, if any;
- (e) Give due weight to the conduct of the accused;
- (f) Examine whether the crime in question was pre-meditated or not;
- (g) Keep in view the age of the accused and whether he has engaged in any similar offence in past for which he has been duly convicted;

¹¹ (2014) 13 SCC 318

¹² (1989) 3 SCC 5

¹³ (2024) 14 SCC 82

¹⁴ (1991) 3 SCC 471

¹⁵ (2019) 8 SCC 382

- (h) Account for the number of victims of the offence;
- (i) Not consider the religion, race, caste or creed of the offender as a factor;
- (j) Consider the possibility of reformation of the accused. It is the duty of the State to establish that the same does not exist; and
- (k) The abuse of trust or misuse of personal relationship, if any.

The facets identified by us above are illustrative and not exhaustive. A holistic view of the entire case must be taken in the attending facts of each case. Considering all these factors among others, the foremost duty of the Court is to assess the evidence in a given case; imposing just and adequate punishment upon the accused.

7. In this part, we must consider the precedents wherein sentence has been modified by the Court either from capital punishment to rigorous imprisonment for life or for an otherwise fixed term.

7.1 In *Shankar Kisanrao Khade v. State of Maharashtra*¹⁶, a two-judge Bench, was considering an appeal of the convict who had kidnapped, raped and murdered an intellectually disabled 11-year-old girl. The High Court of Judicature of Bombay, had awarded the death sentence, but this Court reduced the same to rigorous imprisonment for life having considered four aspects - the enormity of the crime; satisfaction of the criminal test; the previous criminal record of the accused even though the same was held to be incorrectly considered by the High Court; and the non-reporting of the offence of sexual assault.

¹⁶ (2013) 5 SCC 546
Crl.App.No..../2026 @ SLP(Crl)No.3407 of 2026

7.2 In *Rajkumar v. State of M.P.*¹⁷, this Court altered the death sentence, on a conviction under Section 376 IPC, to 35 years of RI without remission, upholding the conviction of an uncle for having committed breach of trust since she was in his care and custody.

7.3 In *Selvam v. State*¹⁸ a three-judge Bench of this Court while examining the correctness of conviction and sentence of the appellant having been convicted of rape and murder, refused to interfere with the conviction but modified the sentence to minimum thirty years without remission.

7.4 In *Parsuram v. State of M.P.*¹⁹, the sentence of death awarded to a tutor for having committed rape and murder of a student was modified to actual imprisonment of 30 years on account of the fact that the Courts below did not consider *(a)* the possibility of reformation; *(b)* lack of criminal antecedents; and *(c)* the age of the accused at the time of the offence which was 22 years.

7.5 In *Sundar v. State*²⁰ a three judge Bench had while upholding the conviction of the accused on the aspect of kidnapping and murdering a seven year old victim modified the sentence to a minimum of twenty years RI without remission considering that at the time of the offence the accused was 23 years old, had no prior antecedent, had maintained a good conduct in prison and had also made efforts to mend his ways in anticipation of release.

¹⁷ (2014) 5 SCC 353

¹⁸ (2014) 12 SCC 274

¹⁹ (2019) 8 SCC 382

²⁰ (2024) 12 SCC 764

Crl.App.No..../2026 @ SLP(Crl)No.3407 of 2026

7.6 In *Ravinder Singh v. State (NCT of Delhi)*²¹ the Court while examining the conviction of a father accused of having raped his own daughter, observed that the conviction cannot be disturbed. The aspect of sentence, it was observed had to be enhanced should the view be that the father will be eligible for remission after 14 years since at the time of release the victim will be still in her 20s and so his presence in her life will be greatly disturbing. Sentence was modified to fixed terms of 20 years.

8. In the present case, the appellant convict has no criminal antecedents; was of only 25 years when the offence was committed; given the young age there is a possibility of reformation. The State has neither brought on record anything to show that the same would not be possible, nor has it contravened the statement made on behalf of the appellant that in the nearly ten years (including remission) that he has been convicted, he has maintained a good conduct. Be that as it may, this Court cannot lose sight of the fact that the offence, as already observed is heinous and is not only against the victim PW-2 but against the society at large. Despite much evolution, sociologically and psychologically, to break away from the chains of patriarchal thought, incidents such as these are only continuing unabashedly. Various amendments have been brought in over the years in the law, and while they may have had positive impact to some extent, the urgency to root out such offences cannot be simmered down even for a bit till these incidents are recorded only in history and are viewed with collective disdain. It would be apposite to refer to some statistics in this regard:

²¹ (2024) 2 SCC 323
Crl.App.No..../2026 @ SLP(Crl)No.3407 of 2026

NCRB DATA ON RAPE CASES REPORTED AGAINST WOMEN DURING 2021-2024

SL	CRIME HEAD	2021 ²²	2022 ²³	2023 ²⁴	2024 ²⁵
1.	Murder with Rape/Gang Rape	284	248	230	266
2.	Rape	31677	31516	29670	29536
3.	Attempt to Commit Rape	3800	3288	2796	2561

9. It also must be observed that the offence under which the appellant-convict has been sentenced, Section 376D IPC was substituted by way of the 2013 Criminal Law Amendment being Act 13 of 2013 which was brought in the aftermath of the horrifying *Nirbhaya* incident that took place on the streets of the capital. There it has been made clear that for this offence, minimum sentence is of twenty years, and the maximum is that has been imposed upon the appellant-convict i.e., life imprisonment for the remainder of natural life. It appears quite plainly that considering the nature of the offence, the Legislature first made it an independent offence and then also provided for a minimum punishment. The Court, therefore, has no other alternative and must, upon convicting, impose at least the minimum sentence. The judicial discretion in reducing the same by recording '*adequate and special reasons*' which was given in *proviso* to the unamended Section 376 has been taken away. This indicates legislative recognition of the seriousness of the offence which the Courts must abide by.

10. Considering the principles discussed above and applying them to the factors accruing in favour of the appellant - convict noted earlier, we deem it appropriate to modify the sentence to 20 years with benefit of remission, if any. The appeal is partly allowed.

²² <https://www.ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/1696831798CII2021Volume1.pdf>

²³ <https://www.ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/1701607577CrimeinIndia2022Book1.pdf>

²⁴ <https://www.ncrb.gov.in/uploads/files/1CrimeinIndia2023PartI1.pdf>

²⁵ <https://www.ncrb.gov.in/uploads/files/CrimeinIndia2024-VolumeI1.pdf>

Crl.App.No..../2026 @ SLP(Crl)No.3407 of 2026

Pending application(s) if any shall stand closed.

.....**J.**
(SANJAY KAROL)

.....**J.**
(AUGUSTINE GEORGE MASIH)

New Delhi;
July 20, 2026