

CASE COMMENTARY ON BACHAN SINGH V. STATE OF PUNJAB (AIR 1980 SC 898)

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ABSTRACT

This is a landmark judgment by the Supreme Court of India on the constitutionality of the death penalty in India. Bachan was convicted of murder and sentenced to death by the court. His appeal against the sentence was dismissed by the High Court. The main issue before the Supreme Court was whether the death penalty was constitutional under Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty. The Court held that the death penalty was constitutional but should be awarded only in the "rarest of rare" cases where the alternative punishment of life imprisonment would be "unquestionably inadequate". The Court laid down a set of guidelines to determine whether a case falls in the "rarest of rare" category, such as the motive of the crime, brutality of the crime, and the personality of the offender. The judgment has been criticized for its lack of clarity and consistency in the application of the "rarest of rare" doctrine. The Bachan Singh case has been cited in subsequent cases involving the death penalty and has had a significant impact on the jurisprudence of capital punishment in India.

KEYWORDS

Death Penalty, Bachan Singh Case, Constitutionality of Death Penalty, Article 21, Rarest to the Rare, Supreme Court

CASE DETAILS

- ❖ **Case Title:** Bachan Singh v. State of Punjab AIR 1980 SC 898
- ❖ **Case No.:** SECOND APPEAL No. - 389 of 2001
- ❖ **Date Of Order:** 16 August 1982

- ❖ **Quorum:** Justice Y.C. Chandrachud; Justice A. Gupta; Justice N. Untwalia; Justice P.N. Bhagwati and Justice R. Sarkaria.
- ❖ **Author Of Judgement:** Justice P.N. Bhagwati
- ❖ **Appellant:** Bachan Singh
- ❖ **Respondent:** State of Punjab
- ❖ **Council For Appellant:** R.K.S.Chauhan
- ❖ **Council For Respondent:** Rameshwar Nath
- ❖ **Acts Involved:** Section 302 of the Indian Penal Code, 1860, Section 354 (3) of the Code of Criminal Procedure, 1973, Articles 19, 21 of the Constitution of India, 1950, 35th Law Commission Report²⁴

I. INTRODUCTION

The Bachan Singh case is an important landmark case in Indian jurisprudence, which dealt with the constitutionality of the death penalty under the Indian Constitution. The case was heard in 1980 by a five-judge bench of the Supreme Court of India, and the decision was delivered by Chief Justice P.N. Bhagwati. The case arose from the appeal of Bachan Singh, who was convicted of murder and sentenced to death by hanging. Bachan Singh challenged the constitutionality of the death penalty under Article 21 (right to life and personal liberty) and Article 14 (right to equality) of the Indian Constitution. This case established the "rarest of rare" doctrine, which meant that the death penalty should be reserved for the most heinous and brutal crimes. The decision laid down guidelines to be followed by judges while

²⁴ Supreme court, *Bachan Singh v. State of Punjab AIR 1980 SC 898*, Case Mine, (May 9, 1980) *Bachan Singh v. State of Punjab*. | [Supreme Court of India | Judgment | Law | CaseMine \(last visited on 20.04.2023\)](#)

deciding when the death penalty should be imposed, which included taking into account the nature of the crime as well as the character and background of the accused. The Bachan Singh case has been referred to in subsequent cases involving the death penalty in India, and it remains one of the most important legal precedents in the country's legal history.²⁵ The case pronounced the doctrine of rarest to the rare which means the death sentence is only to be awarded in cases where the crime is of such extreme gravity that it shocks the conscience of society as a whole. The Court also established that the death sentence should only be imposed in cases where there are no other alternative punishments available. The Court held that if the trial judge imposes a death sentence without providing a reasoned explanation, it would be considered arbitrary and violate the right to life under Article 21 of the Constitution. Furthermore, the Supreme Court also established the right of the convict to appeal to a higher court, which would review the sentence and determine whether the death penalty was justified or not. This right of appeal was made mandatory in death penalty cases to ensure that the convict is not wrongly convicted and sentenced to death. Overall, the Bachan Singh case resulted in several significant legal changes to the implementation of the death penalty in India. These changes not only helped to ensure that the death penalty is only imposed in the most extreme cases but also provided safeguards to protect the rights of the convict.

II. **FACTS OF THE CASE**

A. The appellant Bachan Singh had before been condemned of his wife's murder and sentenced to life imprisonment under Section 302 of the Indian Penal Code. He was released after serving his sentence and spent around six months with his cousin Hukam Singh and his

family. The appellant's living at Hukam Singh's apartment was questioned by their family members, including his wife and son.²⁶

- B. After dinner on the night of the crime, i.e., July 4, 1977, the family went to bed. The sleeping arrangement was such that in which Hukam Singh's three daughters, went to sleep in the inner courtyard, while the complainant along with Hukam Singh, and Desa Singh went to sleep in the external courtyard.
- C. At around midnight, Vidya Bai saw that the appellant was inflicting axe blows on the face of her sister, Veeran Bai when she was awakened by the alarm. When she tried to stop him, the appellant attacked her with the axe on the face and ear, making her unconscious.
- D. Later, after hearing the shriek, Diwan Singh awoke from his slumber and saw the appellant strike Desa Singh with the axe. In order to arouse Gulab Singh, who was sleeping at a short distance from there, he raised an alarm. When both of them saw the appellant with an axe in Desa Singh's face, they both rushed to stop him. When the witnesses raised an alarm and the appellant noticed them approaching him, he dropped the axe and fled. They pursued him but were unsuccessful in arresting him.
- E. The appellant was later tried and setup shamefaced by the Sessions Court of murdering three people, including Desa Singh (Hukam Singh's son), Durga Bai and Veeran Bai (Hukam Singh's daughters), and injuring Vidya Bai (Hukam Singh's another daughter) in the courtyard of Hukam Singh's house at about midnight, and was sentenced to death.²⁷

²⁵ Soma Sarkar, *Rarest of Rare Doctrine*, Law Times Journal, (Nov 22, 2018) <https://lawtimesjournal.in/rarest-of-rare-doctrine/> (last visited on 20.04.2023)

²⁶ Supreme court, *Bachan Singh v. State of Punjab AIR 1980 SC 898*, Kanoon.Org, (May 9, 1980) [Bachan Singh vs State of Punjab on 9 May, 1980 \(indiankanoon.org\)](https://www.kanoon.org/cases/bachan-singh-vs-state-of-punjab-on-9-may-1980/) (last visited on 20.04.2023)

²⁷ Supreme court, *Bachan Singh v. State of Punjab AIR 1980 SC 898*, Case Mine, (May 9, 1980) [Bachan Singh v. State of Punjab. | Supreme Court of India | Judgment | Law | CaseMine](https://www.casemine.com/cases/bachan-singh-v-state-of-punjab/) (last visited on 20.04.2023)

F. The Death judgement assessed by the Trial Court was upheld by the High Court on appeal. Also, the injuries on Vidya Bai's body were considered inhumane by both the Trial Court and the HC. Bachan Singh then filed the special leave to appeal in the Supreme Court, in which the question was raised regarding the presence of "special reasons" in the facts of the case, which are necessary for awarding the death sentence according to Section 354(3) of Code of Criminal Procedure

III. ISSUE RAISED

The main issues in the case were as follows:

- A. Whether the death punishment provided in Section 302 of the Indian Penal Code for the crime of murder was unconstitutional?²⁸
- B. Whether Article 19 applicable in determining the constitutionality of the contested provision in Section 302 of the IPC?²⁹
- C. Whether the disputed limb of Section 302 of the IPC in violation of Article 21 of the Constitution?
- D. Whether the sentencing procedure embodied in section 354(3) of CrPC,1973 is constitutional or not?

IV. STATUTORY PROVISION

The Bachan Singh case, which was a landmark judgment in the history of Indian Constitution, resulted in the establishment of several statutory provisions for the implementation of the death penalty. One of the most notable provisions that were introduced by the Supreme Court in this case was the 'rarest of the rare'

²⁸ Supreme court, *Bachan Singh v. State of Punjab AIR 1980 SC 898*, Kanoon.Org, (May 9, 1980)
[Bachan Singh vs State of Punjab on 9 May, 1980 \(indiankanoon.org\)](#) (last visited on 20.04.2023)

²⁹ *Ria Verma, Analysing the judgment of Bachan Singh v. State of Punjab (1980)*, iPleaders, (Jan11, 2022)
[Analysing the judgment of Bachan Singh v. State of Punjab \(1980\) - iPleaders](#) (last visited on 20.04.2023)

doctrine. The other statutory provision refers in this case are as follows:

- Section 354 (3) of the CrPC, 1973.
- Section 302 of the Indian Penal Code, 1860.
- Article 14 and 21 of the Constitution, 1950³⁰

V. ARGUMENT IN FAVOUR OF APPELLANT

- A. The argument in favour of the petitioner in Bachan Singh case is that the death penalty violates the right to life, which is a fundamental right guaranteed under Article 21 of the Constitution.
- B. The petitioner argued that the imposition of the death penalty is arbitrary and discriminatory since it is only awarded in some cases and not in others. This violates the principle of equality before the law guaranteed under Article 14 of the Constitution.
- C. Furthermore, the petitioner also argued that the death penalty does not serve any valid penological purpose as it does not act as a deterrent and does not provide any reformation or rehabilitation to the convict. Instead, it perpetuates a cycle of violence and revenge.
- D. The petitioner also cited international norms and practices, which provide that the death penalty should only be awarded in the rarest of rare cases. They argued that the imposition of the death penalty in India does not conform to these norms and practices.
- E. Lastly, the petitioner argued that the death penalty is irreversible, and there is always the possibility of a wrongful conviction. Therefore, the imposition of the death penalty violates the principle of natural justice.
- F. In summary, the argument in favour of the petitioner in the Bachan Singh case is that the death penalty violates several

³⁰ *Ria Verma, Analysing the judgment of Bachan Singh v. State of Punjab (1980)*, iPleaders, (Jan11, 2022)
[Analysing the judgment of Bachan Singh v. State of Punjab \(1980\) - iPleaders](#) (last visited on 20.04.2023)

fundamental rights and principles, and there is no valid justification for its continued use.

VI. ARUMENT IN FAVOUR OF RESPONDENT

- A. One of the main arguments in favour of the respondent in the Bachan Singh case is that the death penalty is an extreme punishment that should only be used in the rarest of cases. The sentence of death is irreversible and final, and there is no way to rectify any errors or mistakes made in the criminal justice system once the sentence has been carried out.
- B. Furthermore, the Supreme Court has recognized that the death penalty is disproportionate to the crime committed in many cases, and that there are other sentencing options available that are just as effective in protecting society and punishing criminals.
- C. In addition, the Bachan Singh case highlighted the need for an individualized approach to sentencing in capital cases. The Court recognized that each person is unique, and that the circumstances surrounding the crime, as well as the offender's background and personal history, must be taken into account when determining an appropriate sentence.
- D. Finally, the respondent in the Bachan Singh case argued that the death penalty is not an effective deterrent to crime. Studies show that the threat of capital punishment does not significantly reduce the incidence of violent crime, and that there are other factors that play a much greater role in deterring criminal activity.
- E. In conclusion, the arguments in favour of the respondent in the Bachan Singh case highlight the need for a more merciful and rational approach to sentencing in capital cases, one that takes into account the individual

circumstances of the offender and recognizes that the death penalty should only be used in the most extreme and exceptional cases.

VII. JUDGEMENT

- A. The challenges constitutional validity to Sections 302 of the IPC and Section 354(3) of the CrPC were dismissed by the Supreme Court with a majority decision of 4:1. The court held that , the six essential rights provided by Article 19(1) are not absolute rights and are subject to the reasonable restrictions which can be imposed by the state and the inherent restraint.³¹
- B. This restraint arises from the reciprocal obligations of the members of civil society according to which one member of the society is obligated to use his rights in such a way as not to infringe or harm similar rights of another member of society. The court upheld the validity of both the section and state that Section 302 neither violates Article 19 nor Article 21 of the Constitution.
- C. It was also determined that Section 354 (3) of the CrPC was not unconstitutional and that the term "special reason" in the section refers to "exceptional reasons"³² arising from the extraordinarily circumstances of a particular case involving both the crime and the criminal.
- D. In its judgement, the court held that the death penalty can be imposed only in the "rarest of rare cases", where the circumstances of the crime are so grave and heinous that the only punishment capable of being inflicted is the death penalty.

³¹ *Ria Verma, Analysing the judgment of Bachan Singh v. State of Punjab (1980)*, iPleaders, (Jan11, 2022)

[Analysing the judgment of Bachan Singh v. State of Punjab \(1980\) - iPleaders \(last visited on 20.04.2023\)](#)

³² *Radhika Maheshwari Bachan Singh v. State of Punjab – Case Analysis*, Law Corner.In, (Aug 16, 2021)

[Bachan Singh Vs State of Punjab - Case Analysis - Law Corner \(last visited on 20.04.2023\)](#)

- E. The court laid down a two-fold test for determining the rarest of rare cases: first, the crime must be of an extreme nature that shocks the conscience of society, and secondly, the convict must be shown to be an exceptional offender who is beyond reform and can never be reformed.
- F. The court also held that while determining the sentence, the court must take into account a wide range of factors like the age, background, character, motive, and mental state of the offender, as well as the nature and circumstances of the crime. The death penalty can be imposed only after a careful and individualised scrutiny of all these factors, and after considering any mitigating circumstances in favour of the offender.
- G. Overall, the judgement in the Bachan Singh case marks a significant milestone in the evolution of India's criminal justice system, as it recognised the importance of individual sentencing and provided a framework for imposing the death penalty in a reasonable, just, and fair manner.

VIII. ANALYSIS

- A. The Bachan Singh case is a landmark judgment delivered by the Supreme Court of India in 1980 concerning the constitutionality of the death penalty. The case arose from the murder of two persons by Bachan Singh in 1981, and after conviction, he was sentenced to death by the trial court.
- B. The Supreme Court upheld the death sentence, stating that Section 302 of the Indian Penal Code (IPC) which provides for the punishment of death was constitutional. However, the Court held that the imposition of the death penalty should be used sparingly only in the rarest of rare cases where the

alternative option of life imprisonment was completely inadequate.

- C. The Court arrived at this conclusion by applying the doctrine of balancing which required a balance between the severity of the crime and the penalty imposed. The Court also noted the principle of reformatory justice and the need to evolve a new sentencing policy that emphasized reformation and not retribution.
- D. The Court outlined the following principles that should guide the determination of the rarest of rare cases:
 1. The crime must be exceptionally brutal and revolting.
 2. The option of life imprisonment must be demonstrably inadequate.
 3. The aggravating and mitigating factors must be carefully examined.
 4. The Court must take into account the circumstances of the criminal as well as the crime.
 5. The burden of proof is on the prosecution to establish that the case falls within the category of the rarest of rare cases.
- E. The Bachan Singh case set the precedent for future death penalty cases in India, and the rarest of rare principle became the guiding principle for judges to apply while imposing capital punishment. The judgment has been the subject of much debate and criticism, with many arguing that the death penalty itself is unconstitutional and violates human rights.

IX. CONCLUSION

The main issue raised in the Bachan Singh case was regarding the constitutionality of the death penalty. The case brought up the question of whether or not the death penalty violated the right to life and dignity guaranteed under Article 21 of the Indian Constitution. The court held that

the death penalty could only be imposed in "the rarest of the rare cases" and imposed specific guidelines and procedures for determining when the death penalty could be given. The case helped to clarify the definition of "rarest of the rare cases" and established a precedent for future cases involving the death penalty.³³

X. RELATED CASE LAWS

The following are some cases in which the rarest of rare doctrine reiterated by the supreme court:

1. Santosh Kumar Bariyar v. State of Maharashtra (2009) 6 SCC 498.
2. Machhi Singh v State of Punjab AIR 1983 SC 957
3. Kehar Singh v Delhi Administration AIR1988SC1883.
4. Bhagwan Das v Union Territory of Delhi AIR2011SC1863
5. M. A. Anthony v State of Kerala AIR2009SC2459

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³³ Muskan Jain, *Case Summary: Bachan Singh Vs. State of Punjab*, Lawlex.Org, (Jun 25, 2020) [Case Summary: Bachan Singh vs. State of Punjab - LawLex.Org](#) (last visited on 20.04.2023)