

A

## GAYASI

v.

STATE OF U.P.

March 17, 1981 )

B

[Y.V. CHANDRACHUD, C.J. AND A.P. SEN, J]

*Penal Code—Crime against public servant for reasons arising out of performance of official duty—No reason for commuting death sentence to lesser sentence.*

C

The deceased Bhagwan Singh who was working as an Amin put the appellant's lands to sale for recovering certain arrears. The appellant and his two companions Mool Chand and Daya Ram lay in wait for the deceased while he was on his way back home. Daya Ram first fired three shots at the deceased as a result of which he fell down. Immediately thereafter the appellant emerged with a sword and chopped off the head of Bhagwan Singh.

The appellant was convicted under section 302 read with section 34, I.P.C. and sentenced to death. The second accused was still absconding.

D

On the question of sentence

E

HELD : There is no reason for commuting the sentence of death to the lesser sentence of imprisonment for life. The deceased had to perform his ministerial duties as an amin in putting the land to sale. He bore no personal grudge against the appellant nor had he anything to gain for himself by selling the appellant's lands. Such crimes against public servants for reasons arising out of the performance by them of their public duties must be put down with a firm hand. [269E]

The fact that the second accused was absconding does not reduce the gravity of the appellant's offence. [269D]

F

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 362 of 1979.

Appeal by Special Leave from the Judgment and Order dated 28.2.79 of the Allahabad High Court at Allahabad in Crl. Appeal No. 3500/78 and murder reference No. 33/78.

G

S. K. Bisaria for the Appellant.

H. R. Bhardwaj and R. K. Bhatt for the Respondent.

The Judgment of the Court was delivered by

H

CHANDRACHUD, C. J. The appellant's land was auctioned on December 26, 1976 in a revenue sale held to recover arrears of land revenue. On the same day, the land of one Mool Chand was also sold for a similar reason. The deceased Bhagwan Singh, who was

an Amin, acted as an officer of the Court in effecting the aforesaid sales. After the sale proceedings were over, Bhagwan Singh was returning home on a bicycle, with his peon Shripat, who is examined in the case as P.W.4 The appellant, Mool Chand and the latter's son Daya Ram lay in wait for the deceased and while he was passing along on his bicycle, Daya Ram fired three shots at him; two out of these hit Bhagwan Singh, as a result of which he fell down. A split second thereafter, the appellant emerged with a sword and chopped off the neck of Bhagwan Singh. Daya Ram is still absconding but the appellant was convicted by the Sessions Court under section 302 read with section 34 of the Penal Code and was sentenced to death. He was also convicted under section 307 of the Penal Code. The sentence of death having been confirmed by the High Court, the appellant has filed this appeal by special leave. The leave is limited to the question of sentence.

We see no reason for commuting the sentence of death imposed upon the appellant to the lesser sentence of imprisonment for life. The fact that Daya Ram is absconding does not reduce the gravity of the offence committed by the appellant. Bhagwan Singh had but performed his ministerial duty as an Amin in putting the appellant's land to sale. He bore no personal grudge against the appellant nor had he anything to gain for himself by selling the lands of the appellant and of Daya Ram. Such crimes committed against public servants for reasons arising out of the performance by them of their public duties must be discouraged and put down with a firm hand. We, therefore, confirm the sentence of death passed on the appellant and dismiss the appeal.

P.B.R.

*Appeal dismissed.*