

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIALTEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019



Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

RG KAR CASE: A QUESTION OF JUSTICE?

AUTHORED BY - SIDDHARTH DEV PRASAD

On January 20, 2025, Two Indian courts pronounced contradictory judgments on the death penalty, indicating glaring contradictions in the interpretation of the 'rarest of rare' doctrine. In both cases, heinous crimes were involved, yet the divergent approaches to justice have raised vital questions about the issues of fairness, consistency, and the social message these rulings carry.

In the first case, the Sealdah Sessions Court deliberated on the brutal rape and murder of an on-duty Junior Doctor at RG Kar Medical College and Hospital, Kolkata. The victim, in her official capacity, was resting during a 24-hour shift when she was attacked. The crime was particularly egregious, involving not just brutal rape and murder but subsequent tampering of the crime scene under the guise of building renovations. There was no available CCTV footage to aid the investigation, though the accused was eventually apprehended. Despite the gravity of the crime and its broader implications, the court refrained from categorizing the case as the "rarest of rare", & chose not to impose the death penalty and ordered life imprisonment till death. In addition, a fine of Rs 50,000 was also imposed on him.

This judgment has sparked outrage among many, who argue that the decision undermines the societal message of accountability and safety for women, particularly those in vulnerable positions, such as healthcare workers.

Death penalty has been prevalent in India since time immemorial, however, the methods of implementing it have been changing from time to time. It was practiced in ancient India in different forms and was usually gruesome and painful. Executions of criminals were a common practice in the days of the Mahabharata and the Ramayana, and capital punishment was regarded as an essential step in maintaining law and order. In the Shanti Parva of the Mahabharata, Emperor Ghumtsen was in favor of the death penalty, believing that if criminals were not punished, crime would increase. His son Satyaketu, however, was against such punishments, believing against the killing of humans. Even in the Hindu era and subsequently during the Mughal regime, the death penalty was still carried out, though usually in cruel and

heart-rending manners. It was only under British rule that these savage methods were dropped in favor of hanging, which became the norm for execution. In contemporary India, although the death penalty remains, it is now only given in the 'rarest of rare' cases, a more measured and humane approach to criminal justice.¹

Legal experts have pointed out that the doctrine established in *Bachan Singh v. State of Punjab* (1980)² requires courts to assess whether the crime's brutality shocks the conscience of society and whether alternative punishments are inadequate. Although the 5-judges bench stated that this doctrine should only be used in exceptional circumstances, but it did not embellish as to what these exceptional circumstances are. It was finally in *Machhi Singh v. State of Punjab* (1983)³, that the Supreme Court provided a framework for the 'rarest of rare' doctrine. The court identified five categories of crimes where such a punishment is justified.

“The criteria are —

- a) *manner of committing the murder; when the murder is committed in an extremely brutal and dastardly manner so as to arouse extreme indignation within the community,*
- b) *motive of the murder; when the murder is committed for a motive which reveals total depravity,*
- c) *socially abhorrent nature of the crime; that is when a murder occurs of someone belonging to a minority community and is committed not for personal reasons but in circumstances which arouse social wrath,*
- d) *magnitude of the crime, and*
- e) *personality of the offender; when the victim of murder is a child, a helpless woman, a person rendered helpless by old age or infirmity etc.*”⁴

The RG Kar case, marked by the brutal violation of a woman's dignity in a professional space meant to be safe, coupled with systemic failures such as evidence tampering, arguably meets this threshold. Moreover, in the Supreme Court in number of judgements has emphasized that crimes that reflect extreme depravity or those that threaten societal confidence in law and order

¹ Rajkumari, *THE DOCTRINE OF RAREST OF RARE": A CRITICAL ANALYSIS*, Volume II Issue IV, IJIRL, 2-3 (2024).

² *Bachan Singh vs State Of Punjab* (1982)3SCC24.

³ *Machhi Singh And Others vs State Of Punjab* 1983 AIR 957.

⁴THE HINDU<<https://www.thehindu.com/news/national/what-is-the-rarest-of-rare-doctrine-explained/article69235510.ece>> (last visited May. 12, 2025).

could justify the death penalty. By not recognizing this case as such, the judgment risks undermining public trust in the judicial system and perpetuating an environment of impunity for crimes against women.

In contrast, the Sessions Court in Kerala delivered a verdict in the Sharon Raj murder case⁵, categorizing it as a “rarest of rare” instance and sentencing the accused to death. This case involved the girlfriend of the victim, who lured him under the pretext of sexual intimacy, poisoned him by mixing pesticide into juice, and caused his death 11 days later. The court’s reliance on premeditation, deceit, and the calculated nature of the crime to justify the death penalty aligns with the principles laid out in *Santosh Kumar Satish Bhushan Bariyar v. State of Maharashtra (2009)*⁶, where the Supreme Court stressed that meticulous planning could elevate a crime into the “rarest of rare” category.

However, questions arise regarding proportionality and consistency when comparing this judgment to the RG Kar case. While the Sharon Raj case involved premeditation and intent, it lacked the physical violence, systemic negligence, and societal ramifications present in the RG Kar case. In *Shatrughan Chauhan v. Union of India (2014)*⁷, the Supreme Court underscored *the need for uniformity in the application of the death penalty to ensure that justice is not arbitrary or disproportionate*. The divergence in these two cases highlights the urgent need for a more consistent application of legal principles, particularly when dealing with crimes that profoundly impact society.

The *Principle of Proportionality*, as enshrined in Article 14 of the Constitution of India⁸, demands that punishment be commensurate with the severity of the crime. The RG Kar judgment appears to downplay the gravity of the crime and the societal implications of such violence against women, particularly in professional spaces. This decision risks sending a message that systemic failures—such as tampered evidence and delayed justice—can dilute the severity of punishment. On the other hand, the Sharon Raj judgment prioritizes premeditation and deceit, signaling that even without physical violence, certain murders merit the harshest

⁵ THE ECONOMIC TIMES, <<https://economictimes.indiatimes.com/news/india/sharon-raj-murder-case-kerala-court-sentences-accused-girlfriend-greeshma-to-death/articleshow/117389949.cms?from=mdr>> last visited May 12, 2025.

⁶ Bariyar [Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra, (2009) 6 SCC 498.

⁷ Shatrughan Chauhan & Anr vs Union Of India & Ors 2014 AIR SCW 793.

⁸ INDIA CONSTI. Art 14.

penalty. These contrasting judgments reveal inconsistencies that could erode public confidence in the judiciary and create a perception of arbitrariness in sentencing.

Furthermore, the Supreme Court has repeatedly emphasized that the decision to impose the death penalty must take into account the crime's effect on society and the extent of harm inflicted on public trust. This was evident in the Nirbhaya case⁹, where widespread societal outrage and public demand for justice prompted the judiciary to address the matter with the utmost seriousness. Mr. Dipak Mishra, the then Chief Justice of India, expressed that *the offence was executed, showing a clear act of savagery*. Subsequently, the judicial bench upheld the death sentence for the convicts as *the commission of this act falls under the principle "rarest of the rare" as it not only disturbed the conscience of the society but also questioned the safety laws available for a child and women in this country*.¹⁰ In the RG Kar case, the brutal murder of a healthcare worker during her duty not only highlights the vulnerability of women in professional spaces but also reflects broader issues of workplace safety and systemic accountability. By not classifying this as “rarest of rare”, the court inadvertently diminishes the societal call for stringent deterrence against such crimes. As also held in the Jagmohan Singh v. State of UP (1973)¹¹, the court upheld the constitutionality of death penalty, stating that it serves not only as a deterrent but also has a societal expression of strong condemnation for crime committed.

These judgments compel us to reflect on the role of courts in shaping societal norms and upholding constitutional values. The RG Kar case illustrates the urgent need to reevaluate how the justice system addresses crimes against women and the vulnerable, especially in professional contexts. The systemic failures evident in this case—ranging from tampered evidence to the absence of CCTV footage—point to larger institutional gaps that exacerbate the suffering of victims and their families. In contrast, the Sharon Raj judgment, while commendable for delivering justice, raises questions about how courts weigh different forms of criminality and the societal impact of their decisions.

The inconsistencies in these judgments highlight the need for clearer guidelines and a more unified approach to interpreting the “rarest of rare” doctrine. Cases involving extreme brutality,

⁹ Mukesh & Anr vs State For Nct Of Delhi & Ors AIR 2017 SUPREME COURT 2161.

¹⁰ Spandana Reddy Bommu & Beerelly Sai Vivek Rao, *CRITICAL ANALYSIS OF THE DOCTRINE RAREST OF THE RARE*, Journal of Legal Theory & Practice (2023).

¹¹ Jagmohan Singh vs The State Of U. P 1973 AIR 947.

systemic negligence, or societal vulnerability—like the RG Kar case—should undoubtedly fall within its ambit. This is not to undermine the severity of the Sharon Raj case but to emphasize the importance of proportionality and fairness in judicial decisions.

As a society, we must demand greater accountability from our legal system. If a case like RG Kar does not meet the threshold for the death penalty, it forces us to reconsider the standards we set for justice and the messages we send to victims, perpetrators, and society at large. A consistent and principled application of the “rarest of rare” doctrine is essential not only for justice but for upholding the values of fairness, equality, and societal trust in the judiciary.

