



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://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 2 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

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**



### **Megha Middha**

*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmanagarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmanagarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

### **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 8 Articles in various reputed Law Journals. Conducted 1 Moot 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.

# **SUSPENSION, REMISSION AND COMMUTATION OF SENTENCE**

AUTHORED BY - PRANAV RAJ

Law Student, Chanakya National Law University, Patna

## **ABSTRACT**

Sentence suspension, remission and commutation are three crucial features of both international and national systems of criminal justice around the globe, which allow for a possibility of reducing the severity of punishment imposed on offenders. This project will discuss in detail the legal context as well as practical consequences for such processes, concentrating on the application, effectiveness and relevance to both culprits and society. Sentence Suspension refers to the exercise that is done by a competent authority to temporarily stop an offender from serving his or her sentence. It is granted mostly in situations where there are grounds for appeal or considerations of mercy or equity arise. Remission is when a convict's term of imprisonment has been shortened or cancelled altogether. The CrPC provides certain conditions where remission may occur based on good conduct, attempts at reformation or any other mitigating factors. This touches upon matters related to law governing sentence remission focusing on executive branch roles and judicial authorities who grant such reprieve. Commutation involves changing one form of punishment into another usually more lenient form. This may entail replacing a death sentence with life imprisonment or shortening a long prison term. Further, there is the application of these provisions in practice looking at case law, judicial precedents and instances of executive action. It would also examine how they affect principle of fairness, deterrence as well as rehabilitation within the criminal justice system. The main objective of this project is to have an all-encompassing analysis of suspension, remission and commutation under CrPC so as to enhance understanding on these important aspects of criminal law that influence administration of justice in India.

Keywords: Criminal justice system, Suspension of sentence, Remission of sentence, Criminal Procedure Code, Commutation of sentence, Judicial review etc.

## **INTRODUCTION:**

Suspension, remission and commutation are important elements of penal law that provide opportunities to reduce the severity or change the trajectory of punishment under certain circumstances. Although they often overlap one another, every one provides different goals as far as the domain of criminal justice is concerned.

Temporary cessation or delay in execution of a sentence imposed by a court is referred to as suspension of sentence. It may be due to several reasons such as pending appeal on behalf of the convict, bad health conditions or humanitarian grounds. This provision emphasizes on safeguarding rights for an accused person as well as ensuring that justice is not finally done before all the legal procedures have been exhausted. However, remission is a term used to describe how judges or other competent authorities can reduce the length or severity of sentences. It recognizes that there can be factors for mitigating punishment such as reform, rehabilitation among others. Remission of sentence fits with the goals of rehabilitation by the justice system since it aims at enabling offenders to become full members of society while protecting public safety and individual rights.

Commutation is an act of changing one punishment into another usually by replacing a harder penalty with a milder one. Through commutation, it allows courts to depart from this rigid framework and take into account cases where sentencing is disproportionate or create unbearable hardship. The spirit behind commutation thus reflects current trends in the manner punishment is given focusing on proportionality mercy, and human dignity.

Legal practitioners, policymakers, and stakeholders in the criminal justice process must have a grasp of suspension, remission, and commutation within CRPC. These mechanisms not only act as safeguards against miscarriages of justice, but also embody some of the most fundamental principles of Indian law such as fairness, compassion and rehabilitation. The central objective of this project is to explore the legal, procedural and practical aspects regarding suspension, remission and commutation under CRPC thereby bringing out their significance, application and implications in relation to broader context of criminal law and administration of justice. By analyzing relevant statutes, case laws and scholarly discussions this research seeks to provide an understanding into how these fundamental areas in penal jurisprudence interrelate with legal principles societal values on discretionary powers.

## **EVOLUTION OF THIS CONCEPT**

Evolution of suspension, remission and commutation in legal systems has occurred over

centuries and reflects changing philosophies of justice, human rights and rehabilitation. Below is a quick summary of their historical development:

- **Ancient Civilizations:** Various elements of suspension, remission or commutation date back to the ancient civilizations for instance Mesopotamia, Egypt, and Greece. In these societies there were often pardon or amnesty systems that existed for certain crimes committed by individuals who would otherwise face punishment; thus recognizing an early need for mercy and forgiveness within the legal system.
- **Roman Law:** The Roman law introduced to the world what we now know as clemency and pardon which are the foundations of remission and commutation as we know them today. Most emperors could grant pardons or reduce sentences as they saw fit; this was done with a sense of mercy since Rome's highest ruler had the power to show leniency too that no one else could deny.
- **Medieval Europe:** In medieval Europe, Kings wielded enormous powers regarding pardoning and showing mercy. Acts of grace or political expedience by kings included reprieves, pardons or commutations. Such practices varied greatly among different kingdoms due to religious considerations as well as cultural norms.
- **Common Law Tradition:** When it comes to common law tradition, the King's pardon became a modern system of executive clemency. The English Crown still had power to issue pardons, reprieves and commutations but this authority was steadily hedged by legal limits and parliamentary control.
- **Modern Legal Systems:** The rise of modern legal systems has seen the application of suspension, remission and commutation influenced by principles of due process, proportionality and human rights. This is because many countries' constitutions and statutes now provide for specific procedures whereby pardons or sentence reductions may be reviewed and granted.
- **International Law:** International human rights instruments for instance Universal Declaration on Human Rights (UDHR) as well as International Covenant on Civil and Political Rights (ICCPR) recognize the right to be treated fairly in accordance with crime committed. These are some of the implications that might arise from national level use of suspension, remission as well as commutation.
- **Contemporary Practices:** Suspension, remission and commutation today remain key parts in criminal justice systems across the globe. They serve various purposes like

promoting rehabilitation transgressions curbing or restoring faiths in judicial systems by societies at large.

### INDIANS ASPECT:

The evolution of suspension, remission, and commutation in the Indian legal system is a result of the colonial laws as well as subsequent constitutional developments. The British rule saw such concepts being regulated through statutes such as the IPC, 1860 and the CrPC, 1898 for instance. In this regard, within its codified framework-English law allowed executive clemency with respect to suspending sentences and other acts like remitting or commuting them at will by either Governor-General or Governor of the Province.

On gaining independence from Britain in 1947, executive clemency shifted to President of India under Article 72 of Constitution and Governors of states under Article 161. These provisions authorized the executive to grant pardons, reprieves, respites or remissions of punishment or suspend, remit or commute sentences in certain cases. The basic reason behind these constitutional provisions was to ensure that justice could be tempered with mercy and also provide for a process whereby mistakes or injustices in law could be corrected.

A number of Indian courts have in the past been tasked with the unique role of interpreting and redefining the legislation that governs suspension, remission and commutation. In important pronouncements, the Supreme Court has delineated what executive powers may not be about; fairness, non-arbitrariness and adherence to constitutional values are emphasized. Furthermore, legislative changes have been made to deal with emerging situations and make the granting of clemency by the executive more transparent as well as accountable.

### SUSPENSION IN CRPC

Section 432<sup>1</sup> of CrPC in India deals with the suspension of sentences. This section empowers certain authorities to suspend the execution of sentences. Here is an overview of Section 432 along with the grounds for suspension:

#### SECTION 432 OF CRPC:

##### 1. Power to Suspend Sentences:

---

<sup>1</sup> § 432, The Code of Criminal Procedure, 1973

The power to suspend execution of sentences has been given to specific authorities as provided in section 432 such as;

- State governments.
- Central government (in cases where it is a sentence imposed by court-martial or any other central law).

#### 2. Power of Remission and Commutation:

In addition, not only does this provision give the authorities power to suspend but also remit and commute sentences.

#### 3. Discretionary Act:

This section is discretionary and not mandatory when it comes to exercising the powers herein vested in them for suspension purposes. It lies within the purview of the authority concerned to either pass on or not.

#### 4. Suspension Conditions:

Authorities may impose certain conditions while suspending a sentence at their own discretion.

### GROUND FOR SUSPENSION OF SENTENCE:

The grounds on which the suspension of sentence can be considered include, but are not limited to:

- **Illness or Health Condition:** The authorities may consider suspending the sentence, if the condemned is suffering from a severe illness or health condition.
- **Rehabilitation or Reformation:** They can suspend the sentence to encourage integration into society once there are indications that an individual who has been convicted is rehabilitated or reformed.
- **Pending Appeal:** Until an appeal against conviction is determined, a judge may hold in abeyance sentencing.

- Humanitarian Grounds: In some cases where there exist humanitarian grounds such as taking care of dependents or other compelling circumstances, the authorities have room to suspend the sentence.
- Good Conduct: Instances where it can be grounded down by being lenient with offenders that have been jailed would be when they have been well behaved all through this time
- Public Interest: Deciding whether to impose a sentence suspension in terms of broader public interest depends on whether when looking at it, one believes that there is need for greater public good.

### **REMISSION IN CRPC**

Section 432<sup>2</sup> of the CrPC in India explains that under this provision, remission refers to the power given to certain officers to reduce the term of imprisonment or release a prisoner before his sentence is over. This is what remission means under Section 432 of the CrPC:

#### REMISSION IN SECTION 432:

1. Authority for Granting Remission:

- The State Government
- The Central Government (where the sentence has been made under a Court-Martial or any other Central law)

2. Discretionary Power:

Just like suspensions of sentences in section 432, remission can be granted at the discretion of authorities and not by force and necessity. The decision whether to grant remission lies with the overseeing authorities.

3. Conditions Attached to Remissions:

The conditions as may be deemed fit by the authorities may be imposed while granting such remissions. These may differ from one case to another depending on circumstances surrounding each case as well as behavior exhibited by a convict.

---

<sup>2</sup> *Ibid*

4. Purpose behind Remission :

Remission is therefore generally allowed for reasons such as rehabilitation, reform and humanitarian causes. It can also be determined according to how an offender behaves while in prison.

5. Remission Period

The period of remission extended may vary according to authorities' discretion and could either be a small reduction in the term or release from prison.

6. Judicial Review

Decisions about Section 432 remissions can be subject to judicial scrutiny. Where there are allegations concerning an unfounded or arbitrary exercise of power, courts intervene to apply the principles of fairness.

GROUND FOR REMISSION:

- Good prisoner behavior while serving a sentence
- Genuine regret by the felon
- Health ground or condition
- Appellate jurisdiction over conviction
- Interest of public or other special reasons

In conclusion, Section 432 provides for remission which is a mechanism for shortening the jail term or releasing prisoners on certain grounds and under certain terms and conditions. This is aimed at facilitating rehabilitation and reintegration into society while doing justice.

**COMMUTATION IN CRPC**

COMMUTATION IN TERMS OF SECTION 433:

1. Power to Grant Commutation:

Section 433<sup>3</sup> confers the power to commute sentences on:

- The State Government

---

<sup>3</sup> § 433 of Code of Criminal Procedure, 1973

- The Central Government (in cases where the sentence is imposed by a Court-Martial or any other Central law)
2. **Discretionary Power:**

Like suspension and remission under Sections 432 and 433 respectively, the authority to commute sentences is discretionary and not mandatory. Whether or not they will commute a sentence is left entirely up to the authorities' discretion.
  3. **Conditions for Commutation:**

Sentences may be commuted by authorities as they think fit subject to certain conditions. These conditions will differ depending on case circumstances and convict's behavior.
  4. **Purpose of Commutation:**

Commutation is generally granted with a view to purposes like rehabilitation, reformation or humanitarian consideration. It can also be given as per the prisoner's conduct during his/her stay in prison.
  5. **Nature of Commutation:**

The move involves replacing the original sentence with a lesser penalty. This could mean reducing the number of years in prison, changing a death penalty to life imprisonment or substituting one form of severe punishment for another that is less harsh.
  6. **Judicial Review:**

Section 433 commutation decisions can be judicially reviewed. Where there are allegations of arbitrary and capricious exercise of power, the courts may step in to ensure due process principles are maintained.

**GROUND FOR COMMUTATION:**

Some grounds on which commutation may be granted include:

- Good behaviour during incarceration by the offender
- If genuine remorse is shown by the convict.

- On medical grounds
- When an appeal against or review of the conviction is pending.
- In public interest or any other compelling circumstances.

Under Section 433 of CrPC, Commutation seeks to change a more severe punishment to something lesser based on certain conditions and grounds. It aims at achieving justice while taking into account rehabilitation, reforming and humanitarian values.

## CASE STUDY

### 1. Maru Ram vs Union of India (1980)<sup>4</sup>

#### Case Background:

Maru Ram, together with other co-accused persons were found guilty and sentenced to life imprisonment over being party to the murder case. The sentences were upheld by the High Court. Subsequently, Maru Ram filed a petition with the Supreme Court to have his sentence reduced under Section 432 of CrPC.

#### Legal Issue:

As regards the Supreme Court, it was posed whether or not the power of remission in terms of Section 432 was either an absolute or discretionary power that resides in the Executive arm of government or that it is subject to judicial control.

#### Court's Decision:

In its verdict, however, the Supreme Court confirmed that the discretionary power vested into the Executive is valid under Section 432 of CrPC. Nevertheless, it also maintained that this particular discretion could be reviewed by a court. The bench further ruled that while such powers of mercy are arbitrary and not based on any legal principle; they must still be decided in conformity with reasonableness standards set forth by law. According to them, when deciding upon this kind of matter there should be two basic things: first reasonable grounds ought to exist for taking such decision; secondly no decision will be considered manifestly unreasonable given due regard both for its nature which demands reasonableness in all circumstances otherwise where this condition cannot possibly exist but would rather necessarily result from any conceivable circumstances surrounding one's situation at hand.

---

<sup>4</sup> 1980 AIR 2147

Key takeaways:

- **Discretionary Power of Executive:** The case re-established that the power of remission under Section 432 of the CrPC is discretionary in nature and can be exercised by the Executive.
- **Subject to Judicial Review:** The Court clarified that although this is a discretionary power, it cannot escape judicial review. The exercise of such power must be reasonable and based on relevant considerations.
- **Principles of Natural Justice:** The Court emphasized the importance of principles of natural justice in the exercise of the power of remission. The decision must be fair, just, and non-arbitrary.
- **Limitations on Executive Power:** However, while executive has authority to grant reprieve there are limitations on its absolute powers. By focusing on accountability and scrutiny, court judgment showed how such powers should be exercised.

The 'Maru Ram vs Union Of India' case is important as it provides for an approach to exercise discretion by executive in granting remissions under Section 432 CrPC balancing executive discretion with fairness principles and judicial oversight.

## **2. State of Punjab v. Dalbir Singh<sup>5</sup>**

### Facts of the Case:

Dalbir Singh was charged with serious offence under Indian Penal Code and he was convicted and sentenced to life imprisonment by the trial court. This conviction was upheld on appeal by the High Court. Dalbir Singh through his advocate filed a petition for commutation of sentence under section 433 of Cr.P.C.

### Legal Issues:

Whether in reference to Section 433 of the CrPC, could the sentence of life imprisonment imposed on Dalbir Singh be commuted by an appropriate government?

### Arguments:

Defense Counsel (Dalbir Singh): The defence argued that Dalbir Singh had already served a

---

<sup>5</sup> AIR 2012 SC 1040

significant part of his jail term and his behavior while in prison showed signs that he had reformed. They submitted that these facts coupled with Section 433 should result in a reduction in terms.

State (Prosecution): The state argued that the accused's crime had been deeply offensive and grave and as such, it deserved severe punishment. It asserted that there should be no alteration whatsoever to the decision made by the trial court with respect to this matter as confirmed by the high court.

#### Court's Decision:

From the reasons discussed and due reference to relevant provisions of law, the court gave its verdict. The crime Dalbir Singh committed was serious, yet his behavior while in prison and the possible rehabilitation of him were also considered by the court. The court decided that it would be just to reduce Dalbir Singh's sentence from life imprisonment to a period of twenty years owing to several considerations including reformation and rehabilitation principles.

#### Rationale for the Decision:

The aforementioned tribunal noted that both justice and fairness must be upheld as well as reconciling punishment with chances of reforming and rehabilitating offenders. The position was taken that certain crimes may carry harsh penalties; nonetheless commutation under section 433 of CRPC should not ignore whether there is an opportunity for reforming a prisoner or their conduct during confinement.

### **CONCLUSION**

The above-discussed examination of suspension, remission and commutation of sentences reveals a complex interplay among legal principles, constitutional provisions, judicial precedents and administrative practices. These mechanisms deeply rooted in the concepts of justice, mercy and fairness. As such they are essential components of the criminal justice system in India. However, their application has been subjected to scrutiny and debate suggesting a need for continuous evaluation as well as reforming.

From colonial-era laws to constitutional provisions, the evolution of these concepts demonstrates India's commitment to protecting individual rights while ensuring societal order. Judicial interpretations have attempted to balance the need for executive discretion against legal certainty and due process requirements. Further legislative changes have sought to

increase transparency, accountability and uniformity in the use of executive clemency powers.

Despite these measures being put in place, there are still some challenges that exist such as; arbitrary exercise of executive power; delays on decision making and inequalities in the application of these mechanisms. In order to address these problems, it will be necessary to adopt multi-faceted approach involving amendment of legislation through guidelines by judiciary and reforms within administration.

#### Recommendations:

- **Legislative Reforms:** Enacting comprehensive legislation to deal with suspension, remission and commutation specifically can bring much needed clarity and coherence to the existing legal framework. The legislation should stipulate clear guidelines, procedures and safeguards that would help in the grant of executive clemency.
- **Judicial Guidelines:** To ensure uniformity and fairness in the application of suspension, remission and commutation, Supreme Court and High Courts may issue guidelines. Such guidelines should stress on transparency, non-arbitrariness as well as upholding fundamental rights.
- **Administrative Efficiency:** Simplifying administrative processes and building capacity for those responsible for processing clemency petitions could lead to faster decision-making thereby reducing delays. In respect to this issue, training programs and capacity-building initiatives should be embarked upon so that administrative processes are undertaken according to established legal standards.
- **Transparency and Accountability:** There is an imperative need to put in place mechanisms for public scrutiny and accountability in exercise of executive clemency as a way of preventing abuse of power and ensuring trust by people whom they govern. Transparency and accountability may be improved through regular reporting on clemency decisions with space created for public participation, feedback avenues.
- **Public Awareness and Education:** Public awareness should be raised about the purpose and processes of the suspension, remission, and commutation. Educational campaigns and outreach programs can empower people to assert themselves within their rights and participate in public debates on criminal justice issues.

By adopting these suggestions, India could improve the legal framework regulating suspension,

remission, and commutation and hence promote principles of justice, equity, and rule of law.

## **BIBLIOGRAPHY**

### **BOOKS**

K.N. Chandrasekharan Pillai (2021). *R V Kelkar's Criminal Procedure*.

### **ACT**

Criminal Procedure Code, 1973

