

Death penalty

February 11, 2022

In news– Recently, the Supreme Court of India gave a verdict on Death Penalty.

What did the court say?

- **This judgment by a three-judge Bench led by Justice A.M. Khanwilkar** came in the rape and murder of a seven-year-old.
- The court commuted the death penalty of the convict to life imprisonment.
- The apex court said that the trial judges should not be swayed in favour of death penalty merely because of the dreadful nature of the crime and its harmful impact on the society.
- It said that judges should equally consider the mitigating factors in favor of life imprisonment.
- Justice Dinesh Maheshwari, **referred to the evolution of the principles of penology and** said that penology had grown to accommodate the philosophy of **“preservation of human life”**.
- The bench said that judiciary has other options to death penalty including life imprisonment without remission or premature release, particularly while dealing with heinous crimes.

What is Capital punishment/Death Penalty?

- **Capital punishment, also known as the death penalty, is a state-sanctioned practice of killing a person as a punishment for a crime** and the act of carrying out the sentence is known as an execution.
- A prisoner who has been sentenced to death and awaits execution is condemned and is commonly referred to as being **“on death row”**.

- Crimes that are punishable by death are known as capital crimes, capital offences, or capital felonies, and vary depending on the jurisdiction, but commonly include serious crimes against the person such as murder, mass murder, aggravated cases of rape, among others.

Laws related to death penalty in India-

- Capital punishment in India is a legal penalty for some crimes under the country's main substantive penal legislation, the **Indian Penal Code**, as well as other laws.
- Executions are carried out by hanging.
- In India, Juveniles (**Section 21, Juvenile Justice Act** says that no child under 16 years of age in conflict with law shall be sentenced to death) and people suffering mental illness or insanity (**Shatrughan Chauhan v. Union of India (2014)**) are exempted from capital Punishment.
- **Section 354(3) of the Code of Criminal Procedure, 1973** provides that the court must record "Special reasons" justifying the sentence and state as to why an alternative sentence would not meet the ends of justice in the case, according to the principle 'Life imprisonment is the rule and death sentence is the exception'.
- **Section 371** of the Code of Criminal Procedure provides that cases of the death penalty which are submitted to the High Court by the Sessions Court after being decided upon shall be sent to the Sessions Court.

Capital punishment in the Indian Penal Code(sections)-

Section under IPC or other law	Nature of crime
120B of IPC	Being a party to a criminal conspiracy to commit a capital offence

121 of IPC	Treason for waging war against Government of India
132 of IPC	Abetment of Mutiny actually committed
194 of IPC	Giving or fabricating false evidence with intent to procure a conviction of a capital offence
195A of IPC	Threatening or inducing any person to false evidence resulting in the conviction and death of an innocent person
302 of IPC	Murder
307 (2) of IPC	Attempted murder by a serving life convict
364A of IPC	Kidnapping for Ransom
376A of IPC	Rape and injury which causes death or leaves women in a persistent vegetative state
376AB of IPC	Rape of a child below 12 years
376DB of IPC	Gang rape of a child below 12 years of age
376E of IPC	Certain repeat offences in the context of rape
396 of IPC	Dacoity with murder – in cases where a group of five or more individuals commit dacoity and one of them commits murder in the course of that crime, all members of the group are liable for the death penalty.