

It has been held by the Hon'ble Supreme Court in *Sandeep vs. State of U.P., (2012) 6 SCC 107 ; JT 2012 (5) SC 268*, simple delay in sending of FIR to the Magistrate, without showing any prejudice, will not mean that the investigation was tainted. It also explained as to when the case would fall in the category of '*rarest of the rare case*', when it was held as under:

SUPREME COURT OF INDIA

Bench

Hon'ble Dr Justice B.S. CHAUHAN and
Hon'ble Mr Justice FAKKIR MOHAMED IBRAHIM KALIFULLA, JJ.

Per Fakkir Mohamed Ibrahim Kalifulla, J.

About delay in sending FIR to the Magistrate:

“32. It was also feebly contended on behalf of the appellants that the express report was not forwarded to the Magistrate as stipulated under Section 157, Cr.P.C. instantaneously. According to learned counsel FIR which was initially registered on 17.11.2004 was given a number on 19.11.2004 as FIR No.116 of 2004 and it was altered on 20.11.2004 and was forwarded only on 25.11.2004 to the Magistrate. As far as the said contention is concerned, we only wish to refer to the reported decision of this Court in Pala Singh and Another v. State of Punjab - AIR 1972 SC 2679 wherein this Court has clearly held that where the FIR was actually recorded without delay and the investigation started on the basis of that FIR and there is no other infirmity brought to the notice of the Court then, however improper or objectionable the delay in receipt of the report by the Magistrate concerned, in the absence of any prejudice to the accused it cannot by itself justify the conclusion that the investigation was tainted and prosecution insupportable. Applying the above ratio to the case on hand, *while pointing out the delay in the forwarding of the FIR to the Magistrate, no prejudice was said to have been caused to the appellants by virtue of the said delay.* As far as the commencement of the investigation is concerned, our earlier detailed discussion discloses that there was no dearth in that aspect. *In such circumstances we do not find any infirmity in the case of prosecution on that score.* In fact the above decision was subsequently followed in Ishwar Singh

v. State of Uttar Pradesh-AIR 1976 SC 2423 and Subhash Chander etc. v. Krishan Lal & Ors. -AIR 2001 SC 1903.”

About imposing death sentence:

“37.1. It is, therefore, well-settled that awarding of life sentence is the rule, death is an exception. The application of the '*rarest of rare case*' principle is dependant upon and differs from case to case. However, *the principles laid down earlier and restated in the various decisions of this Court referred to above can be broadly stated that in a deliberately planned crime, executed meticulously in a diabolic manner, exhibiting inhuman conduct in a ghastly manner touching the conscience of everyone and thereby disturb the moral fibre of the society would call for imposition of capital punishment in order to ensure that it acts as a deterrent.* While we are convinced that the case of the prosecution based on the evidence displayed, confirmed the commission of offence by the appellants, without any iota of doubt, we are of the considered opinion, that still the case does not fall within the four corners of the principle of the '*rarest of the rare case*'. However, considering the plight of the hapless young lady, who fell a victim to the avaricious conduct and lust of the appellant Sandeep, the manner in which the life of the deceased was snatched away by causing multiple injuries all over the body with all kinds of weapons, no leniency can be shown to the said appellant. In the decision reported in Swamy Sharaddananda (supra) even while setting aside the sentence of death penalty and awarding the life imprisonment, it was explained that in order to serve ends of justice, the appellant therein should not be released from the prison till the end of his life. Likewise, in Ramraj v. State of Chhattisgarh [AIR 2010 SC 420] this Court, while setting aside the death sentence, directed that the appellant therein should serve a minimum period of 20 years including the remissions and *would not be released on completion of 14 years of imprisonment.*

38. Taking note of the above decision and also taking into account the facts and circumstances of the case on hand, while holding that the imposition of death sentence to the accused Sandeep was not warranted and while awarding life imprisonment we hold that *accused Sandeep must serve a minimum of 30 years in jail without remissions before consideration of his case for premature release.*”
