

RMM LAW COLLEGE SAHARSA

CODE OF CRIMINAL PROCEDURE

IIIrd Part

Paper -3

**TOPIC- PROVISIONS AS TO
ACCUSED PERSONS OF**

Topic- Execution, Suspension, Remission And Commutation Of Sentences

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Date- 17/08/2020

433. Power to commute sentence.

The appropriate Government may, without the consent of the person sentenced commute—

(a) a sentence of death, for any other punishment provided by the Indian Penal Code (45 of 1860);

(b) a sentence of imprisonment for life, for imprisonment for a term not exceeding fourteen years or for fine

(c) a sentence of rigorous imprisonment for simple imprisonment for any term to which that person might have been sentenced, or for fine;

(d) a sentence of simple imprisonment, for fine.

Comments

Even where Supreme Court upheld validity of section 433, Government cannot reduce or commute sentence to less than 14 years for weighty reasons as the crime was serious;

Shidagauda Nilgappa Ghandakar v. State of Karnataka, AIR 1981 SC 764: (1981) Cr LJ 324: (1981) SCC (Cr) 163: (1981) Cr LR (SC) 112.

433A. Restriction on powers of remission or commutation in certain cases.

Notwithstanding anything contained in section 432, where a sentence of imprisonment for life is imposed on conviction of a person for an offence for which death is one of the punishment provided by laws or where a sentence of death imposed on a person has been commuted under section 433 into one of imprisonment for life, such person shall not be released from prison unless he had served at least fourteen years of imprisonment.

Comments

To read down or interpret section 433A of the Code with the aid of the changes proposed by the Indian Penal Code (Amendment) Bill would tantamount to hearing the provisions of the said bill as forming part of the Indian Penal Code which is clearly impermissible. To put such an interpretation with the aid of such extrinsic material would result in violence to the plain language of section 433A of the Code; Ashok Kumar v. Union of India, 1991 Cr LJ 2483 (SC)

434. Concurrent power of Central Government in case of death sentences.

The powers conferred by sections 432 and 433 upon the State Government may, in the case of sentences of death, also be exercised by the Central Government.

435. State Government to act after consultation with Central Government in certain cases.

(1) The powers conferred by sections 432 and 433 upon the State Government to remit or commute a sentence, in any case where the sentence is for an offence—

(a) which was investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or by any other agency

empowered to make investigation into an offence under any Central Act other than this Code, or

(b) which involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government, or

(c) which was committed by a person in the service of the Central Government, while acting or purporting to act in the discharge of his official duty. shall not be exercised by the State Government except after consultation with the Central Government.

(2) No order of suspension, remission or commutation of sentences passed by the State Government in relation to a person, who has been convicted of offences, some of which relate to matters to which the executive power of the Union extends, and who has been sentenced to separate terms of imprisonment which are to run concurrently, shall have effect unless an order for the suspension, remission or commutation, as the case may be, of such sentences has also been made by the Central Government in relation to the offences committed by such person with regard to matters to which the executive power of the Union extends.

Comments

Where the trial Court has sufficient reasons for taking lenient view on question of sentence, it should not be interfered; State of Karnataka v. Hema Reddy alias Vema Reddy, AIR 1981 SC 1417: (1981) Cr LJ 1019: (1981) 2 SCC 186:(1981)1 SCC (Cr) 3985: (1981) SCC (Cr) 429: (1981) Cr LR (SC) 278

