

## SYNOPSIS AND LIST OF DATES

The instant petition under Article 32 of the Constitution seeks to challenge the Constitutional validity of sec.3(2)(i) of the 'The Scheduled Castes & The Scheduled Tribes (Prevention of Atrocities)' Act, 1989 herein be called as 'Act', which stipulates a mandatory death sentence in a case where an innocent member of a Scheduled caste or a Scheduled Tribe is convicted and is executed in consequence of a false and fabricated evidence given by the accused concerned.

sec.3(2)(i) of the Act is reproduced herein as under:-

### **Sec.3 Punishments for offences Atrocities:-**

**(1)** --- ----

**(2)** *Whoever, not being a member of Scheduled Caste or a Scheduled Tribe:-*

**(i)** *gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine: **and if an innocent member of a Scheduled Caste or a Scheduled Tribe be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence, shall be punished with death.***

At this juncture and before adverting to the challenge of the vires of sec.3(2)(i) of the Act, it would be relevant to mention herein the other allied sections of the other codes which has or had similar provisions akin to sec.3(2)(i) of the Act.

Sec.303 IPC which reads as under:-

**'Sec.303:- Punishment for murder by life convict:-** *Whoever, being under sentence of imprisonment for life, commits murder, shall be punished with death.*

That this Hon'ble Court in its Constitutional Bench decision in '*Mithu vs. State of Punjab, 1983 (2) SCC 277*', struck down sec.303 IPC by holding to be unconstitutional.

Sec.194 IPC reads as under:-

**"194. Giving or fabricating false evidence with intent to procure conviction of capital offence.—** *Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital [by the law for the time being in force in [India]] shall be punished with [imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine;*

***if innocent person be thereby convicted and executed.—and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.***

Similarly, sec.31A(1) (b) of the NDPS Act, 1985 is also reproduced herein as under:-

**"31A. Death penalty for certain offences after previous conviction.—(1)** Notwithstanding anything contained in section 31, if any person who has been convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, any of the offences punishable under [section 19, section 24, section 27-A and for offences involving commercial quantity of any narcotic drug or psychotropic substance], is subsequently convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, an offence relating to,—

**(a)** --- --- ---

**(b)** *financing, directly or indirectly, any of the activities specified in clause (a), shall be punishable with death.*

Sec.31A of the NDPS Act, 1985 came to be amended and substituted by Act 16 of 2014 w.e.f. 1.5.14 and the said amendment reads as under:-

s.15:- *In sec.31A of the principal Act, in sub section (1), for the words 'shall be punishable with death', the words and figures 'shall be punished with punishment which shall not be less than the punishment specified in sec.31 or with death' shall be substituted.*

Sec.27(3) of the Arms Act, 1959 reads as under:-

**"Sec.27:- Punishment for using Arms etc.**

(1) --- --- ---

(2) --- --- ---

(3) *whoever uses any prohibited arms or prohibited ammunition or does any act in contravention of sec.7 and such use or act results in the death of any other person, shall be punishable with death.*

That this Hon'ble Court in '*State of Punjab Vs. Dalbir Singh, 2012 (3) SCC 346*', by comprehensive Judgment held that sec.27(3) of the Arms Act was against the fundamental tenets of our Constitutional law as developed by this Court and accordingly, declared that sec.27(3) of the Arms Act was ultravires the Constitution and was declared void. The reasoning adopted in *Dalbir Singh's case (supra)* would be spelt out in detail in subsequent paras of the synopsis.

Thus, it can be seen from the aforementioned paras, that as and when an occasion had arisen where the mandatory imposition of death penalty is called in

question in different statutes, either this Hon'ble Court by exercising its Constitutional powers of judicial review has struck down those provisions by holding it to be unconstitutional and void or the legislature itself has amended those provisions by removing the 'mandatory' imposition of death penalty.

In this regard, Article 13 of the Constitution and more specifically Article 13(2) of the Constitution has to be given its true mandate wherein it has been provided that the State shall not make any law which takes away or abridges the right conferred by Part III of the Constitution and any law made in contravention of the same as void to the extent of such contravention.

Since one of the first landmark Judgments of this Hon'ble Court wherein challenge to sec.303 IPC which is almost akin to sec.3(2)(i) of the SC & ST Act was raised in *Mithu's case (supra)*, it would be useful to spelt out the ratio in the said decision:-

- a) Any sentencing process by which the legislature deprives the Courts of their legitimate Jurisdiction to exercise their discretion not to impose the death sentence in appropriate cases

and compels them to shut their eyes to the mitigating circumstances is unconscionable;

- b) It is a travesty of justice not only to sentence such a person to death but to tell him that he shall not be heard why he should not be sentenced to death;
- c) A provision of law which deprives the Court of the use of its wise and beneficent discretion in a matter of life and death, without regard to the circumstances in which the offence was committed and, therefore, with regard to the gravity of the offence, cannot be but regarded as harsh, unjust and unfair;
- d) The legislature cannot make relevant circumstances irrelevant, deprived the Courts of their legitimate Jurisdiction to exercise their discretion not to impose the death sentence in appropriate cases, compel them to shut their eyes to mitigating circumstances and inflict upon them the dubious and unconscionable duty of imposing a preordained sentence of death. Equity and good conscience are the hallmarks of the justice;

- e) The scales of justice are removed from the hands of the Judge so soon as he pronounces accused guilty of the offence. So final, so irrevocable and so irrestitutable is the sentence of death that no law which provides for it without involvement of the judicial mind can be said to be fair, just and reasonable. Such a law must necessarily be stigmatised as arbitrarily and oppressive;

That this Hon'ble Court again had an occasion to re-visit such draconian provisions of mandatory death sentence in *Dalbir Singh's case (supra)* wherein it was dealing with sec.27 (3) of the Arms Act. In the said decision this Hon'ble Court not only dealt with *Mithu's case (supra)* but also took into consideration the various International Laws and Foreign Judgments covering the same situation.

The following were the considerations which bestowed upon this Hon'ble Court in *Dalbir Singh's case (supra)*:-

- a) The Constitution Bench in '*Sunil Batra Vs. Delhi, Admn., 1978 (4) SCC 494*' has held that the guarantee against the cruel and harsh punishment given in the 8<sup>th</sup> Amendment to the

U.S. Constitution is also a part of our Constitutional guarantee and is incorporated under Article 13(2) of the Constitution.

- b) In '*Woodson Vs. North Carolina, 49 L Ed 2d 944*' where the US Supreme Court was dealing with North Carolina 1974 statute where death sentence was mandatory for those persons who were convicted of first degree murder. It was held that mandatory death sentence was unconstitutional and violated the English Amendment. The reasoning adopted by the Court was that a process that accords no significance to relevant facets of the character and record of the individual offender or the circumstances of the particular offence excludes from consideration in fixing the ultimate the punishment of death the possibility of compassionate or mitigating factors stemming from the diverse frailties of human kind. It treats all persons convicted of a designated offence not as uniquely individual human beings, but as members of faceless, undifferentiated mass to be subjected to the blind infliction of the penalty of death.



- c) Consideration of both the offender and offence in order to arrive at a just and appropriate sentence has been viewed as a progressive and humanizing development.
- d) Similarly in '*Roberts Vs. Louisiana, 52 L Ed 2d 637*', the US Supreme Court held that it is essential that the capital sentencing decision allow for consideration of whatever mitigating circumstances may be relevant to either the particular offender or the particular offence. Because the Louisiana statute does not allow for consideration of particularized mitigating factors, it is unconstitutional.
- e) In '*Reyes vs. R., 2002 (2) AC 235*', the Privy counsel while relying upon the Judgment rendered by this Hon'ble Court in *Mithu's case (supra)* held that to deny the offender the opportunity, before sentence is passed, to seek to persuade the Court that in all the circumstances to condemn him to death would be disproportionate and inappropriate is to treat him as no human being should be treated and thus, to deny his basic humanity.

- f) It was also held that not only determination of guilty but also determination of the appropriate measure of punishment are judicial not executive function.
- g) Similar provisions were struck down by different Supreme Courts on the above mentioned Constitutional mandates and principles. The references are '*Attorney General Vs. Susan Kigula, 2009 UGSC 6 (Uganda Supreme Court)*', '*Godfrey Ngotho Vs. Republic, 2010 eKLR2 (Kenyan Court of Appeal)*'.

Thus, in Dalbir Singh's case (supra) this Hon'ble Court categorically noted as indicated herein above that mandatory death penalty has been found to be Constitutionally invalid in various Jurisdictions where there is an independent judiciary and the rights of the citizens are protected in a Constitution. It further held that a law which is not consistent with the notions of fairness while it imposes an irreversible penalty like death penalty is repugnant to the concept of right and reason.

Thus, it was held that sec.27(3) of the Arms Act which deprived the judiciary from discharging its Constitutional

duties of judicial review whereby it has the power of using discretion in the sentencing procedure was unconstitutional and was thus, rightly declared void.

That another aspect of the matter is the second part of the sec.194 IPC which is almost akin to sec.3(2)(i) of the Act but with a major difference in sentencing in as much as sec.194 IPC provides for an option of awarding death sentence or sentence of imprisonment of life etc.

Similarly, sec.31A (1)(b) of the NDPS Act which initially provided for mandatory death sentence was rightly amended in the year 2014 by the legislature itself and further provided for an option of awarding death sentence or any other imprisonment as specified in sec.31 of the Act.

Furthermore, if the mandatory death sentences are allowed to continue in statutes, it would defeat the existence of very important provisions of Code of Criminal Procedure namely 235(2) Cr.P.C. as well as sec.354 (3) Cr.P.C. both of which provides for hearing of an accused on the quantum of sentence as well as giving reasons for imposing sentence by the Court.

Thus, all that the petitioner seeks/prays before this Hon'ble Court by virtue of the instant Writ Petition under Article 32 of the Constitution is to strike down the provision with regard to mandatory death penalty as prescribed under sec.3(2)(i) of the 'The Scheduled Castes & The Scheduled Tribes (Prevention of Atrocities)' Act, 1989, the same being ultravires the Constitution and against the fundamental tenets of our Constitutional laws as developed by this Hon'ble Court.

That the brief facts adverting to the present petition are as under:-

01.01.1956 Sec.303 IPC came into existence by way of Act 26 of 1955 w.e.f. 1.1.56 which prescribed for mandatory death sentence if a murder was committed by a person who is already undergoing sentence of imprisonment for life.

07.04.1983 A Constitution Bench '*Mithu Vs. State of Punjab, 1983 (2) SCC 277*' vide its Judgment dated 7.4.83 held that sec.303 IPC to be unconstitutional and struck it

down being arbitrary and unreasonable depriving the Judiciary any scope for applying its Judicial discretion as to weigh any mitigating circumstances.

27.05.1988 Sec.27(3) of the Arms Act, 1959 was substituted w.e.f. 27.5.88 wherein it provided for mandatory death sentence.

01.02.2012 This Hon'ble Court in '*State of Punjab Vs. Dalbir Singh, 2012 (3) SCC 346*' vide its Judgment dated 1.2.12 held that sec.27(3) of the Arms Act to be unconstitutional and struck it down being arbitrary and unreasonable depriving the Judiciary any scope for applying its Judicial discretion as to weigh any mitigating circumstances.

29.05.1989 Sec.31A (1)(b) of the NDPS Act, 1985 came to be inserted by Act 2 of 1989 w.e.f. 29.5.89 which again provided for mandatory death sentence.

01.05.2014 However, 31A(1)(b) of the NDPS Act was substituted by Act 16 of 2014 w.e.f. 1.5.14 wherein it provided for both options i.e. either for death or alternative punishments.

Year 1860 Sec.194 IPC was incorporated at its inception which is totally akin to sec.3(2)(i) of the Act but provides for sentence punishable either with death or imprisonment for life etc.

11.09.1989 Sec.3(2)(i) was incorporated in 'The Scheduled Castes & The Scheduled Tribes (Prevention of Atrocities)' Act, 1989 and the second part of the said Section provides for a mandatory death sentence.

31.03.2019 That the petitioner seeks/prays before this Hon'ble Court by virtue of the instant Writ Petition under Article 32 of the Constitution is to strike down the provision with regard to mandatory death penalty as prescribed under sec.3(2)(i) of the 'The Scheduled Castes & The Scheduled Tribes (Prevention

of Atrocities)' Act, 1989, the same being ultravires the Constitution and against the fundamental tenets of our Constitutional laws as developed by this Hon'ble Court.

**IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION**

**WRIT PETITION (CRL.) (PIL) NO.            OF 2019**

**IN THE MATTER OF:**

Public Interest Litigation under Article 32 of the Constitution wherein it seeks to challenge the Constitutional validity of sec.3(2)(i) of the 'The Scheduled Castes & The Scheduled Tribes (Prevention of Atrocities)' Act, 1989.

*AND*

**IN THE MATTER OF:**

Rishi Malhotra  
Advocate,  
131 Old Lawyers' Chamber,  
Supreme Court,  
New Delhi-110001  
Permanent Resident of  
B-369, Meera Bagh,  
Paschim Vihar,  
New Delhi-110063

---Petitioner

*Versus*

Union of India  
Through its Secretary,  
Ministry of Law and Justice,  
4th Floor, A-Wing,  
Shastri Bhawan,  
New Delhi-110001

---Respondent



TO  
THE HON'BLE CHIEF JUSTICE  
OF INDIA AND HIS COMPANION  
JUSTICES OF THIS HON'BLE COURT

THE HUMBLE PETITION OF THE  
PETITIONER ABOVE NAMED

**MOST RESPECTFULLY SHOWETH:**

1. The petitioner has filed the instant Writ Petition which is in the nature of a Public Interest Litigation under Article 32 of the Constitution wherein it seeks to challenge the Constitutional validity of sec.3(2)(i) of the 'The Scheduled Castes & The Scheduled Tribes (Prevention of Atrocities)' Act, 1989 herein be called as 'Act', which stipulates a mandatory death sentence in a case where an innocent member of a Scheduled caste or a Scheduled Tribe is convicted and is executed in consequence of a false and fabricated evidence given by the accused concerned.
  
- 1A. The petitioner prays before this Hon'ble Court by virtue of the instant Writ Petition under Article 32 of the Constitution is to strike down the provision with regard to mandatory death penalty as prescribed under sec.3(2)(i) of the 'The Scheduled Castes & The Scheduled Tribes (Prevention of Atrocities)' Act, 1989,

the same being ultravires the Constitution and against the fundamental tenets of our Constitutional laws as developed by this Hon'ble Court.

1B. That the petitioner is not only a responsible citizen of the country but also is a responsible Advocate-on-Record practicing in this Hon'ble Court as above-mentioned. The petitioner has a settled practice and has an annual profession income to the tune of Rs.35 to 40 lacs. His Adhaar Card No.7502 2554 7293, PAN No. is AGDPM 7571P, email ID is rishimalhotra131@yahoo.co.in and his mobile No. is 9810110060.

1C. That no personal interest of any kind is involved in the matter.

1D. That no Civil, Criminal or Revenue Litigation is involved which has or could have a legal Nexus with the issues involved in the PIL.

1E. That no concerned Government Authority is moved since the remedy is with this Hon'ble Court.

## **2. QUESTIONS OF LAW**

- A. Whether the section 3(2)(i) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is manifestly arbitrary, disproportionate, excessive, unreasonable, unjust, unfair, harsh, unusual, cruel and are therefore, ultravires the Constitution of India?
- B. Whether the section 3(2)(i) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is violative of Article 14 and 21 of the Constitution of India?
- C. Whether the section 3(2)(i) of the SC & ST (Prevention of Atrocities) Act, 1989 is violative of the judgment of the Hon'ble Supreme Court in Bachan Singh Vs. State of Punjab, AIR 1980 SC 898; Mithu Vs. State of Punjab, AIR 1983 SC 473 and State of Punjab Vs. Dalbir Singh, AIR 2012 SC 1040?
- D. Whether grave manifest injustices may be caused due to patently arbitrary illegal provisions which thus, will infringe upon fundamental rights under Article 14 and 21 of the Constitution?

### 3. FACTS OF THE CASE

A. Sec.303 IPC came into existence by way of Act 26 of 1955 w.e.f. 1.1.56 which prescribed for mandatory death sentence if a murder was committed by a person who is already undergoing sentence of imprisonment for life.

B. A Constitution Bench '*Mithu Vs. State of Punjab, 1983 (2) SCC 277*' vide its Judgment dated 7.4.83 held that sec.303 IPC to be unconstitutional and struck it down being arbitrary and unreasonable depriving the Judiciary any scope for applying its Judicial discretion as to weigh any mitigating circumstances. A copy of the Judgment dated 7.4.83 passed by this Hon'ble Court in '*Mithu Vs. State of Punjab, 1983 (2) SCC 277*' is hereby attached as **Annexure P/1**

C. Sec.27(3) of the Arms Act, 1959 was substituted w.e.f. 27.5.88 wherein it provided for mandatory death sentence.

D. This Hon'ble Court in '*State of Punjab Vs. Dalbir Singh, 2012 (3) SCC 346*' vide its Judgment dated 1.2.12 held that sec.27(3) of the Arms Act to be unconstitutional and struck it down being arbitrary and

unreasonable depriving the Judiciary any scope for applying its Judicial discretion as to weigh any mitigating circumstances. A Copy of the Judgment dated 1.2.12 passed by this Hon'ble Court in '*State of Punjab Vs. Dalbir Singh, 2012 (3) SCC 346*' is hereby attached as **Annexure P/2**

E. Sec.31A (1)(b) of the NDPS Act, 1985 came to be inserted by Act 2 of 1989 w.e.f. 29.5.89 which again provided for mandatory death sentence.

F. However, 31A(1)(b) of the NDPS Act was substituted by Act 16 of 2014 w.e.f. 1.5.14 wherein it provided for both options i.e. either for death or alternative punishments.

G. Sec.194 IPC was incorporated at its inception which is totally akin to sec.3(2)(i) of the Act but provides for sentence punishable either with death or imprisonment for life etc.

H. That on 11.9.89 Sec.3(2)(i) was incorporated in 'The Scheduled Castes & The Scheduled Tribes (Prevention of Atrocities)' Act, 1989 and the second part of the said Section provides for a mandatory death sentence.

- I. That the petitioner seeks/prays before this Hon'ble Court by virtue of the instant Writ Petition under Article 32 of the Constitution is to strike down the provision with regard to mandatory death penalty as prescribed under sec.3(2)(i) of the 'The Scheduled Castes & The Scheduled Tribes (Prevention of Atrocities)' Act, 1989, the same being ultravires the Constitution and against the fundamental tenets of our Constitutional laws as developed by this Hon'ble Court.
  
4. That the petitioner is filing the instant Writ Petition on the following amongst other:-

### **G R O U N D S**

- A. BECAUSE Article 13 of the Constitution and more specifically Article 13(2) of the Constitution has to be given its true mandate wherein it has been provided that the State shall not make any law which takes away or abridges the right conferred by Part III of the Constitution and any law made in contravention of the same as void to the extent of such contravention.

- B. BECAUSE this Hon'ble Court in its first landmark Judgment wherein challenge to sec.303 IPC which is almost akin to sec.3(2)(i) of the SC & ST Act was raised in *Mithu's case (supra)*, wherein it struck down sec.303 IPC by holding it to be unconstitutional and void.
- C. BECAUSE it is a settled proposition of law that any sentencing process by which the legislature deprives the Courts of their legitimate Jurisdiction to exercise their discretion not to impose the death sentence in appropriate cases and compels them to shut their eyes to the mitigating circumstances is unconscionable.
- D. BECAUSE it would be a travesty of justice not only to sentence such a person to death but to tell him that he shall not be heard why he should not be sentenced to death.
- E. BECAUSE even otherwise a provision of law which deprives the Court of the use of its wise and beneficent discretion in a matter of life and death, without regard to the circumstances in which the

offence was committed and, therefore, with regard to the gravity of the offence, cannot be but regarded as harsh, unjust and unfair.

F. BECAUSE the legislature cannot make relevant circumstances irrelevant, deprived the Courts of their legitimate Jurisdiction to exercise their discretion not to impose the death sentence in appropriate cases, compel them to shut their eyes to mitigating circumstances and inflict upon them the dubious and unconscionable duty of imposing a preordained sentence of death. Equity and good conscience are the hallmarks of the justice.

G. BECAUSE if the mandatory provision of awarding death sentence is upheld, the scales of justice are removed from the hands of the Judge so soon as he pronounces accused guilty of the offence. So final, so irrevocable and so irrestitutable is the sentence of death that no law which provides for it without involvement of the judicial mind can be said to be fair, just and reasonable. Such a law must necessarily be stigmatised as arbitrarily and oppressive.



H. BECAUSE this Hon'ble Court again had an occasion to re-visit such draconian provisions of mandatory death sentence in *Dalbir Singh's case (supra)* wherein it was dealing with sec.27 (3) of the Arms Act. In the said decision this Hon'ble Court not only dealt with *Mithu's case (supra)* but also took into consideration the various International Laws and Foreign Judgments covering the same situation.

I. BECAUSE the Constitution Bench in '*Sunil Batra Vs. Delhi, Admn., 1978 (4) SCC 494*' has held that the guarantee against the cruel and harsh punishment given in the 8<sup>th</sup> Amendment to the U.S. Constitution is also a part of our Constitutional guarantee and is incorporated under Article 13(2) of the Constitution.

J. BECAUSE even in International Laws and Foreign Judgments eg. in '*Reyes vs. R., 2002 (2) AC 235*', the Privy counsel while relying upon the Judgment rendered by this Hon'ble Court in *Mithu's case (supra)* held that to deny the offender the opportunity, before sentence is passed, to seek to persuade the Court that in all the circumstances to condemn him to death would be disproportionate and inappropriate is to

treat him as no human being should be treated and thus, to deny his basic humanity.

K. BECAUSE it was also held that not only determination of guilty but also determination of the appropriate measure of punishment are judicial not executive function.

L. BECAUSE similar provisions were struck down by different Supreme Courts on the above mentioned Constitutional mandates and principles. The references are '*Attorney General Vs. Susan Kigula, 2009 UGSC 6 (Uganda Supreme Court)*', '*Godfrey Ngotho Vs. Republic, 2010 eKLR2 (Kenyan Court of Appeal)*'.

M. BECAUSE in Dalbir Singh's case (supra) this Hon'ble Court categorically noted as indicates herein above that mandatory death penalty has been found to be Constitutionally invalid in various Jurisdictions where there is an independent judiciary and the rights of the citizens are protected in a Constitution. It further held that a law which is not consistent with the notions of fairness while it imposes an irreversible

penalty like death penalty is repugnant to the concept of right and reason.

N. BECAUSE another aspect of the matter is the second part of the sec.194 IPC which is almost akin to sec.3(2)(i) of the Act but with a major difference in sentencing in as much as sec.194 IPC provides for an option of awarding death sentence or sentence of imprisonment of life etc.

O. BECAUSE similarly, sec.31A (1)(b) of the NDPS Act which initially provided for mandatory death sentence was rightly amended in the year 2014 by the legislature itself and further provided for an option of awarding death sentence or any other imprisonment as specified in sec.31 of the Act.

P. BECAUSE it can be seen from the aforementioned grounds, that as and when an occasion had arisen where the mandatory imposition of death penalty is called in question in different statutes, either this Hon'ble Court by exercising its Constitutional powers of judicial review has struck down those provisions by holding it to be unconstitutional and void or the

legislature itself has amended those provisions by removing the 'mandatory' imposition of death penalty.

Q. BECAUSE furthermore, if the mandatory death sentences are allowed to continue in statutes, it would defeat the existence of very important provisions of Code of Criminal Procedure namely 235(2) Cr.P.C. as well as sec.354 (3) Cr.P.C. both of which provides for hearing of an accused on the quantum of sentence as well as giving reasons for imposing sentence by the Court.

5. The petitioner has not filed any similar writ petition before in this Hon'ble Court or any of the High Court praying for similar relief.

### **PRAYER**

In the light of the abovementioned facts and circumstances, the petitioner through this instant petition prays before this Hon'ble Court as under:-

a) strike down the provision with regard to mandatory death penalty as prescribed under sec.3(2)(i) of the

'The Scheduled Castes & The Scheduled Tribes (Prevention of Atrocities)' Act, 1989, the same being ultravires the Constitution and against the fundamental tenets of our Constitutional laws as developed by this Hon'ble Court.

b) Pass any such further order(s)/directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

**DRAWN & FILED BY:-**

DRAWN ON:- 27.03.19  
FILED ON: - 29.03.19

**[RISHI MALHOTRA]**  
Advocate-on-Record  
Petitioner in Person



in a case where an innocent member of a Scheduled caste or a Scheduled Tribe is convicted and is executed in consequence of a false and fabricated evidence given by the accused concerned.

2. The endeavour of the petitioner herein who happens to be an Advocate for the last 21 years in this Hon'ble Court and is also an Advocate-on-Record since last 12 years is to challenge the Constitutional validity of sec.3(2)(i) of the 'The Scheduled Castes & The Scheduled Tribes (Prevention of Atrocities)' Act, 1989 herein be called as 'Act', which stipulates a mandatory death sentence in a case where an innocent member of a Scheduled caste or a Scheduled Tribe is convicted and is executed in consequence of a false and fabricated evidence given by the accused concerned.

3. The petitioner prays before this Hon'ble Court by virtue of the instant Writ Petition under Article 32 of the Constitution is to strike down the provision with regard to mandatory death penalty as prescribed under sec.3(2)(i) of the 'The Scheduled Castes & The Scheduled Tribes (Prevention of Atrocities)' Act, 1989, the same being ultravires the Constitution and against

the fundamental tenets of our Constitutional laws as developed by this Hon'ble Court.

4. Hence, I may be permitted to appear before this Hon'ble Court as Petitioner in person and argue the present Writ Petition and does not want any Advocate/Amicus Curiae from the Court.

### **PRAYER**

It is therefore, most respectfully prayed that this Hon'ble Court may be pleased to:-

- a) Grant permission to appear as Petitioner-in-person and argue the present Writ Petition; and /or
- b) Pass any such further order(s)/directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

**FILED BY:-**

**[RISHI MALHOTRA]**  
Advocate-ON-Record  
Petitioner-in-Person

FILED ON: - 29.03.19