ARTICLE

WHEN PARADISE IS LOST TWICE: HASINI AND THE SILENCE OF JUSTICE

Venkatesh Subba Rao*

Abstract

This communique is a brief critique of the proceedings and Judgment in an heinous crime against a seven years young girl child whose charred body was found in Chennai in 2017, which happened after the 2012 Nirbaya Delhi gang rape. The Supreme Court acquitted the sole accused who was sentenced to death under various provisions of penal laws including POCSO Act and the Madras High Court confirmed the capital punishment through a detailed 54 pages judgment. Thus the acquittal came as a shock to the author and hence this critique, which is born out of the study of the proceedings of the Supreme Court and judgments. Supreme Court finding fault with the prosecution case based on certain procedural aspects, including planting of evidence, by the law enforcement strangely stopped with acquittal. The Supreme Court did not order any investigation, which it could under Article 142 – for complete justice, which includes justice to the victim, her family and society at large and not a tool available only for the accused. The Court did not even order a department enquiry or proceeding against the police officials despite the judgment castigating the investigating officers. In the article the authors critiques the approach and one side decision of the highest court of the country and shows how the dead child victim was deprived of justice.

Keywords – Paradise lost, Special Leave Petition, POCSO Act, Planted Evidence, Confirmation bias, Mahakavi Bharathi, Article 142

I. INTRODUCTION

The entire civil society was outraged when seven-year-old Hasini went missing from an apartment complex in Chennai on 5 February 2017[565], and her charred body was found in nearby bushes a couple of days later. Mahakavi Bharathi once proclaimed that the world is a vibrant treasure-house[566]; tragically, Hasini's time in this paradise was cut brutally short. We lost her forever.

* Research Scholar, Interdisciplinary Law, Tamil Nadu Dr Ambedkar Law University, Chennai. The author wishes to place on record the generous financial support for this work extended by Dr Suresh & Sirisha Social Capital Foundation, instituted by the two alumni of Clarkson University, Potsdam, New York, USA.

[565] "Man who sexually abused, killed girl, 7, a stalker: Cops", The Times of India, Dated Feb 10, 2017 (last visited on 04.12.2025)https://timesofindia.indiatimes.com/city/chennai/man-who-sexually-abused-killed-girl-7-a-stalker-cops/articleshow/57072795.cms

[566] Bharati, Subramania. "Ethanai Kodi Inbam." Bharathiyar Kavithaigal

There was, however, a sense of limited closure when—about a year and a half later—the sole accused was convicted and awarded the death penalty by the Trial Court, which the High Court confirmed in July 2018[567].

The recent judgment of the Supreme Court[568] acquitting the convict has come as a jolt. Whatever faint closure the parents may have felt would now stand shattered. This author too was shocked, prompting a detailed study of the 71-page judgment[569] of the Supreme Court, the 54-page High Court judgment[570], and the proceedings before the apex court. This critique is the outcome of that study.

According to the Supreme Court's online case status (publicly accessible on its portal), the convict filed a Special Leave Petition (SLP) on 2 March 2019- approximately 145 days beyond the 60-day limitation period from the date of the High Court judgment. The delay appears to have been condoned mechanically, as the Record of Proceedings (RoP)/Order does not record any reasons to condone the long delay[571]. Expectedly the three-judge Bench headed by the then Chief Justice of India issued limited notice only on the question of sentence. The Order dated 8 April 2019 specifically recorded: *"we are of the view that no fault can be found with the conviction"*[572] (emphasis added), and the execution of the death sentence was stayed.

It is noteworthy that neither the State nor the de facto complainant—the victim's father—was heard. While this may be a routine practice, it is still ironic that no one can even complain of violation of natural justice in such situations.

II. STRIKE ONE: FILING AN SLP

The filing of an SLP itself implies that the High Court did not grant a certificate to appeal to the Supreme Court, which is issued only when a case involves a "substantial question of law". In due course, however, a *different* three-judge Bench on 22 August 2024[573] granted leave with respect to the limited question of sentence, and the Criminal Appeal was registered on 30 August 2024.

Despite this, an Interlocutory Application (IA No. 3310 of 2025) was filed by the appellant on 6 February 2025 seeking amendment of the prayer to "recall the order dated 08.04.2019 and enlarge the notice to permit the appellant to challenge the conviction". Shockingly, the very same day, the RoP/Order mentions that the Hon'ble High Court "had granted leave to appeal on the request made by the counsel for the appellant"[574]. The Senior Counsel who appeared for the

[567] Dashwanth v. State of Tamil Nadu, CRL. A. NO.234 OF 2018 Madras High Cout Judgment Date 10.07.2018
[568] Debby Jain, " Supreme Court Acquits Chennai Man Dashwanth, Who Was Sentenced To Death For Rape-Murder Of 7-Year-Old Girl" Live Law (last visited on 04.12.2025) https://www.livelaw.in/top-stories/supreme-court-acquits-chennai-man-dashwanth-who-was-sentenced-to-death-for-rape-murder-of-7-year-old-girl-306235
[569] Dashwanth v. State of Tamil Nadu, 2025 INSC 1203
[570] Dashwanth v. State of Tamil Nadu, CRL. A. NO.234 OF 2018 Madras High Court Judgment Date 10.07.2018
[571] Dashwanth v. State of Tamil Nadu, Special Leave Petition (Criminal) Diary No. 8151/2019, Supreme Court of India Record of Proceedings Date 08.04.2019
[572] ibid
[573] Dashwanth v. State of Tamil Nadu, Special Leave to Appeal (Crl.) No(s).3300-3301/2019, Supreme Court of India Record of Proceedings Date 22.08.2024
[574] Dashwanth v. State of Tamil Nadu, Criminal Appeal No(s). 3633-3634/2024, Supreme Court of India Record of Proceedings Date 06.02.2025

Appellant side had submitted that the SLP was filed "by mistake"[575], leading to the recall of the earlier final order in the SLP—and thereby opening the door to challenge the conviction.
Any legal practitioner or person even remotely familiar with Supreme Court procedure knows that the *first step* is to check whether a High Court "Certificate of Fitness to Appeal" exists; if not, an SLP is filed. To term this omission a "mistake" is baffling. Moreover, SLP affidavits mandatorily require a declaration that no such certificate has been granted. This cannot be brushed aside as an error; at the very least, it borders on perjury, and possibly contempt of court. Yet the Supreme Court did not examine this issue—despite being duty-bound to, especially given that the final acquittal rests largely on perceived procedural lapses. This marks Strike One against justice for Hasini.

III. Strike Two: Not Remanding the Case

The Supreme Court did not remand the matter for a fresh trial despite acknowledging procedural lapses. The sole reasoning is found in Paragraph 40 of the judgment [576]:
"40. In view of the facts and circumstances indicated above, we would have been persuaded to set aside the impugned judgment and could have remanded the matter to the trial Court for fresh adjudication. However, considering the fact that almost eight years have elapsed since the incident took place, and considering the fact that the appellant has already suffered protracted proceedings of trial and appeal, while being incarcerated in custody, we deem it fit to examine the case on merits" (emphasis added)
This justification is untenable for the following reasons:

1. The Trial Court and High Court proceedings were swift and efficient.
2. The time from FIR to conviction was only 379 days—a fraction of the national average as per the NCRB data
3. The High Court confirmed the conviction within six months (including the summer recess).
4. Any delay occurred at the Supreme Court stage, owing to the appellant—first through delayed filing and then through the "mistaken" SLP.
5. The hearing concluded on 6 March 2025; judgment was reserved and delivered only on 8 October 2025.

IV. Strike Three: Language and Imbalance

Referring to this brutal crime as an "incident"[577] and describing the convict's imprisonment as "incarceration in custody" [578]softens the gravity of the crime and sanitises the context. The convict was not "in custody"—he was serving a lawful sentence for a heinous crime.
An imbalance also appears in how the Court recorded submissions:

- The appellant's submissions: 15 paragraphs (Paras 16–30), over 10 pages
- The State/Respondent's submissions: only 2 paragraphs (Paras 30–31), barely 2 pages

Out of 85 paragraphs, 16 were introductory.

[575] ibid
[576] Dashwanth v. State of Tamil Nadu, 2025 INSC 1203
[577] ibid
[578] ibid

Combined with the long delay between reserving and pronouncing judgment by the Hon'ble Supreme Court, the strikes raise legitimate concern of possible confirmation bias.

The judgment also suggests, in Para 35, that the very *speed* of the trial was a reason to doubt fairness, as though Trial Courts must not deliver swift justice. The crime was a heinous and brutal offence committed against a seven-year-old girl, whose charred body was recovered. It is pertinent to note that the Trial Court in this case was not a regular court, but a Special Court—namely, the Mahila Court and POCSO Court—constituted specifically to ensure speedy trials in such matters. In this context, it is deeply concerning that the duration of the trial itself became a matter requiring consideration.

Further, though the Supreme Court held that evidence was "planted" and the accused "wrongly implicated", it did not order:

- a fresh investigation, and or
- departmental action against the "erring" police officials.

The Supreme Court may have legally acquitted the accused, but it remained silent on justice for the victim, her family, and society at large. No accountability was fixed; no corrective steps ordered. The nation's highest court was muted in pursuit of complete justice.

This is no justice for the soul of the little girl.

V. Conclusion

The Hasini case is not merely a story of one criminal trial; it is a test of how the justice system responds when law, procedure, and public conscience intersect. While the Supreme Court's judgment is final in law, finality alone does not always resolve deeper concerns about fairness, accountability, and the perception of justice. Where a conviction in a grave offence is overturned on grounds of procedural infirmities, the system must also address the consequences of investigative lapses and the unanswered questions left behind.

The rule of law requires that no person be punished except through a fair and lawful process. Equally, it requires that victims and society are not left without institutional answers when serious crimes shake public confidence. Justice cannot rest solely on acquittal or conviction; it must also be reflected in transparent reasoning, procedural consistency, and accountability where errors are found.

The tragedy of Hasini's death cannot be undone. Yet the larger lesson of this case lies in reminding us that courts do more than decide appeals they sustain trust in the legal order. When that trust is strained, the responsibility of institutions becomes even greater. A justice system worthy of confidence must protect the rights of the accused, honour the dignity of victims, and ensure that truth is not lost in the silence between them.