



Court erred in partially accepting Ajmal Kasab's confession: Ujjwal Nikam

Wednesday, 24 November 2010 - 8:34pm IST | Place: Mumbai | Agency: PTI

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A confession should be accepted in toto and not partially, Nikam told Justice Ranjana Desai and Justice RV More who are hearing arguments on confirmation of death sentence awarded to Kasab.

The trial court had erred in partially accepting Pakistani terrorist Ajmal Kasab's confession before a magistrate, government counsel [Ujjwal Nikam](#) told the Bombay High Court today.

A confession should be accepted in toto and not partially, Nikam told Justice Ranjana Desai and JusticeRV More who are hearing arguments on confirmation of death sentence awarded to Kasab for his role in [26/11](#) attacks.

"Kasab's confession was true and voluntary but its value did not deteriorate only because it was given in the magistrate's chamber and not in open court," he argued.

Normally, a confession is recorded in open court and not in magistrate's chambers but in this case it was not in the open court, he said before summing up arguments.

Nikam said during cross examination of the magistrate concerned, Kasab's lawyers had not asked reasons for recording his (Kasab's) confession in the chambers and not in open court.

Such provision for recording confession of an accused in the open court has been made in law so that he should not allege later that the magistrate had pressurised him to confess, the counsel submitted.

In this case, Kasab had not made any such allegation that he was pressurised by the magistrate. The only thing he mentioned during the trial was that he wanted to confess and had requested the court to record his confession in jail. But at no point of time did Kasab say that he wanted to confess in open court, he argued.

Nikam further pointed out that Kasab's act of retracting his confession in the court was an "after-thought" and "well advised".

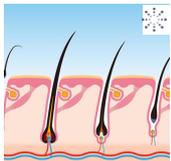
Although Kasab had said in his retraction that he had been pressurised by police to give confession to magistrate, he did not offer any such suggestion to investigating officer Ramesh Mahale during the latter's cross-examination in the trial, he argued.

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Even such a question (of not recording confession in open court) was not put to the magistrate concerned who was also cross examined by Kasab's lawyers in the trial, Nikam told the court.

There is lot of corroborative evidence to show that Kasab had given true and voluntary confession, he said.

Nikam today wound up arguments on confirmation of death penalty imposed on Kasab by the trial court. Kasab's lawyers Amin Solkar and Farhana Shah would open arguments tomorrow on the issue.

Thereafter, the court would hear Kasab's appeal against his conviction and also appeal filed by the government against the acquittal of LeT suspects Faheem Ansari and Sabauddin Ahmed on the ground of "doubtful evidence".

On May 6, the trial court had awarded death sentence to Kasab for his role in killing 166 people in terror attacks, in Mumbai, on November 26, 2008.

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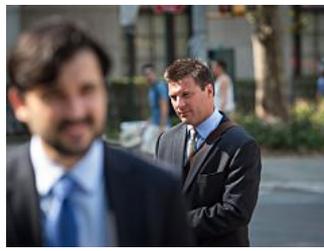
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