

(2015) 01 SC CK 0087

SUPREME COURT OF INDIA

Case No: Criminal Appeal Nos. 202 of 2015.

Raj Kumar - Appellant @HASH
State NCT of Delhi

APPELLANT

Vs

RESPONDENT

Date of Decision: Jan. 30, 2015

Acts Referred:

- Penal Code, 1860 (IPC) - Section 354

Citation: (2016) 3 AICLR 526

Hon'ble Judges: V. Gopala Gowda and R. Banumathi, JJ.

Bench: Division Bench

Advocate: Mr. Vivek Singh and Mr. Irshad Ahmad, Advocates, for the Appellant; Mr. R.S. Suri, Sr. Advocate, Mr. A.D.N. Rao, Mr. R.R. Rajesh and Mr. D.S. Mahra, Advocates, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

V. Gopala Gowda J. - Heard learned counsel for the parties.

Leave granted.

This Court on 8th September, 2014 had issued notice limited on the question of sentence.

2. We have perused the impugned judgment affirming the findings and reasons for the conviction and sentence of the appellant under Section 354 of the Indian Penal Code ("IPC" for short).

3. Learned counsel for the appellant has invited our attention to the medical certificate produced in this appeal to show that the appellant is suffering from effective psychosis, which is stated to be a brain disorder. In support of the same,

another certificate issued by the Deputy Superintendent, Central Jail No. 5, Tihar, New Delhi dated 12th August, 2014 is produced. It is contended by the learned counsel for the appellant that the arguments were advanced before the Division Bench of the High Court in this regard to impose lesser punishment as provided under Section 354 of the IPC, prior to the Amendment Act of 2013, where the Court had discretionary power to impose punishment for less than one year, that had not been considered by the High Court. Therefore, the appellant is before this Court seeking for reducing the sentence imposed by the High Court in the impugned judgment and order.

4. Mr. R.S. Suri, learned senior counsel appearing on behalf of the respondent-State contends that having regard to the serious allegations of outraging the modesty of a woman, against the appellant, the finding of conviction under Section 354 of the IPC has been recorded by the High Court and sentence has been imposed for one year rigorous imprisonment and a fine of Rs. 1,000/-, therefore, it is not a fit case for this Court for reduction of the sentence.

5. After hearing both the learned counsel for the parties and examining the case carefully, the impugned judgment and the other relevant documents produced by the learned counsel for the appellant, particularly the medical certificate, we are of the view that this aspect has not been considered by the High Court while imposing sentence and recording concurrent finding of conviction and sentence under Section 354 of the IPC.

Since the appellant, as stated, has already undergone eight months' imprisonment, particularly with regard to the medical certificate to evidence the fact that he is suffering from effective psychosis, we deem it just and proper to reduce the sentence of one year to the period of sentence already undergone by him. Accordingly, while upholding the conviction and fine imposed on the appellant, we reduce the sentence to the period already undergone by him.

6. With the aforesaid modification in the period of sentence, this appeal is partly allowed. The appellant be set at liberty forthwith, if not required in any other case.