

**NATIONAL LOK ADALAT**

**Cr. A. No.135/2000.**

**30.11.2013.**

Shri Bhanu Pratap Yadav, learned counsel for the appellant.

Shri Amit Pandey, learned P. L. for the respondent /State.

Heard.

**JUDGMENT**

1. The appellant accused has directed this appeal challenging the sustainability of judgment dated 30.4.1999 passed by the Additional Session Judge, Mauganj District Rewa in S. T. No.13/98, whereby he has been convicted and sentenced under Section 363 of IPC for RI one year with fine of Rs.500/-.

2. The appellant's counsel without challenging any finding of the impugned judgment holding the above mentioned conviction of the appellant has made his limited submission that considering the long pendency of the case and during such period they have suffered the mental agony of the case and besides this also suffered the judicial custody between 28.9.97 to 13.10.97 i. e. fourteen days in pendency of trial by adopting the lenient view his awarded jail sentence be reduced up to the aforesaid period for which he has already undergone by enhancing the amount of fine under the discretion of the Court and prayed to decide the appeal accordingly.

2. In view of aforesaid limited submission of the appellants' counsel the entire factual matrix of the case are not being mentioned in this order. On arising the occasion the same could be taken into consideration from the impugned judgment in which the same are elaborately stated by the trial Court.

3. On the other hand State counsel by justifying the impugned judgment has seriously opposed the aforesaid prayer of the appellant's counsel and prayed for dismissal of this appeal.

4. Having heard the parties keeping in view their submissions on perusing the record I have not found any perversity infirmity or any thing contrary to the propriety of law in appreciation of evidence by the trial Court in holding the appellant's guilty for the aforesaid offence. Therefore, there is no scope in the case to extend the acquittal to him consequently the alleged conviction of the appellant is hereby affirmed.

5. Looking to the nature of the offence and the manner in which it was committed by the appellant, I do not found fit to extend the benefit of Probation of the Offenders Act to him.

6. Coming to consider the prayer of the appellant's counsel for reducing the awarded jail sentence is concerned, I have found some substance in it. It is apparent fact on record that the appellant is facing the mental agony of this case since long from the date of his arrest and also suffered the jail in judicial custody of fourteen days in pendency of trial and as per available record he did not have any criminal antecedents and in such premises he appears to be first offender. Therefore, considering all these circumstances by adopting the lenient view, I deem fit to reduce his jail sentence up to the aforesaid period of s fourteen days for which he has already undergone during trial, by enhancing some fine amount with a direction to pay the enhanced sum to the victim to sub serve the justice with him also.

7. In view of aforesaid discussion by affirming the impugned conviction of the appellant this appeal is allowed in part and his awarded jail sentence under Section 363 of IPC is hereby reduced to the aforesaid period of fourteen days for which he has already undergone by enhancing the amount of fine from Rs.500/- to Rs.3,000/-, the enhanced amount of fine is to be deposited by the appellant in the trial Court within sixty days from today, failing in depositing the enhanced fine the appellant has to suffer further two months simple imprisonment and on depositing the enhanced fine amount the same be given to the victim by calling her in the trial Court through summons. Till this extent the impugned judgment is modified while other findings of the same are hereby affirmed.

8. Appeal is allowed in part, as indicated above.

(U. C. Maheshwari)  
Judge

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