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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 30th July, 2021

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**CRL.A. 285/2020**

CRL.M.(BAIL) 454/2020

ANAND PRAKASH

..... Appellant

Represented by: Mr. Tahir Ashraf Siddiqui, Advocate.

versus

STATE

..... Respondent

Represented by: Mr. Amit Gupta, APP for the State  
with SI Amit Grewal, PS Lajpat  
Nagar.

**CORAM:**

**HON'BLE MS. JUSTICE MUKTA GUPTA**

**JUDGMENT : (ORAL)**

The hearing has been conducted through Video Conferencing.

**CRL.A. 285/2020**

1. By this appeal, the appellant has challenged the impugned judgment dated 9<sup>th</sup> August, 2019, whereby the appellant has been convicted for offence punishable under Section 354B IPC for outraging the modesty of minor girl and for committing an offence punishable under Section 12 of the POCSO Act.

2. Vide the order on sentence dated 27<sup>th</sup> September, 2019, the appellant was awarded simple imprisonment for a period of three years and a fine of ₹5,000/-, in default whereof, to undergo simple imprisonment for one month for offence punishable under Section 354B IPC. For offence under Section 12 of the POCSO Act, the appellant was awarded simple imprisonment to the period already undergone with a fine of ₹5,000/-, in default of payment of fine, to undergo simple imprisonment for one month. The victim was awarded with the compensation of ₹1 lakh out of which the appellant was to pay a sum of ₹15,000/- and in default of the payment of compensation, to undergo simple imprisonment for one month.

3. The allegations against the appellant by the minor girl in the deposition was that the appellant asked her to take off her lower pajami, abused her and what he did thereafter, she did not remember. In the cross-examination, she denied that the appellant was falsely implicated in view of the misunderstanding regarding the theft in the house. She also denied that the appellant had not removed his pants before her or that he never abused.

4. Mother of the prosecutrix was also examined who stated that on 8<sup>th</sup> July, 2014 at about 7.00 PM, she went down to the ground floor in the parking area to switch on the water motor. Mother of the prosecutrix had a car and so did the tenants. When she went to the parking area, she heard noise coming from behind the car. She went to see as to what was happening and found that her daughter was there with the accused. The pajami worn by her daughter had been removed and the pant of the appellant was also lowered. When the appellant saw her, he immediately raised his pants to the waist and ran away from there. She found her daughter upset and perplexed.

Then she took her daughter to the first floor, where she told the mother that the appellant was doing wrong acts with her.

5. In his statement recorded under Section 313 Cr.P.C., the appellant made a statement voluntarily that he had committed the offence and removed the pajami of the prosecutrix, who was aged 5 years and also made obscene gestures. The appellant also filed an application pleading guilty alongwith an affidavit. The appellant also sought a lenient view to be taken as he was 25 years old, there was no other criminal case and he had no source of income.

6. Based on the statement of the mother of the prosecutrix who saw the prosecutrix in a condition where her pajami had been lowered and even the pants of the appellant was lowered, it is evident that the prosecution has proved the commission of offences by the appellant punishable under Section 354B IPC and Section 12 of the POCSO Act beyond reasonable doubt, even dehors the admission of the appellant in his statement under Section 313 Cr.P.C.

7. The sentence awarded to the appellant under Section 354B IPC is the minimum prescribed i.e. three years imprisonment and hence, cannot be further reduced. Nominal roll of the appellant has been received from the Jail, according to which the appellant has undergone the substantive sentence of three years and now, he is undergoing sentence in default of payment of fine on two counts and payment of compensation of ₹15,000/-. Considering the fact that even the in default sentence is reasonable, this Court finds no ground to modify the sentence of the appellant.

8. Learned counsel for the appellant states that the appellant has no means to pay the fine as also the compensation. Further the appellant was

not awarded any work in the jail which earning he could utilise for payment of fine and compensation. The appellant was awarded simple imprisonment for a period of three years and in case, the appellant wanted to do some work, he could have volunteered to the Superintendent (Jail), for which there appears to be no application filed.

9. There being no error in the impugned judgment convicting the appellant and the order on sentence, the appeal is dismissed.

**CRL.M.(BAIL) 454/2020**

1. Application is dismissed as infructuous.
2. Order be uploaded on the website of this Court.

**(MUKTA GUPTA)**  
**JUDGE**

**JULY 30, 2021**  
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