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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE DEVNARAYAN MISHRA**

ON THE 29th OF DECEMBER, 2023

CRIMINAL APPEAL No. 971 of 2014

BETWEEN:-

**KITTU @ KETAR S/O BALKISHAN PRAJAPATI, AGED
ABOUT 27 YEARS, VILL. TEVERIYA P.S. GAUSABAD
(MADHYA PRADESH)**

.....APPELLANT

(NEERAJ PATHAK, LEARNED COUNSEL FOR THE PETITIONER.)

AND

**THE STATE OF MADHYA PRADESH POLICE STATION
GAUSABAD DAMOH (MADHYA PRADESH)**

.....RESPONDENTS

**(SANDEEP KUMAR DUBEY P.L. APPEARING ON BEHALF OF ADVOCATE
GENERAL.)**

.....
*This appeal coming on for hearing this day, the court passed the
following:*

ORDER

This appeal under Section 374 (2) of Cr.P.C. has been filed being aggrieved with the Judgment and sentence of conviction passed by the Special Judge, S.C./S.T. (P.A.) Act, 1989, Damoh, dated 12.3.2014, in Special Case No.19/2011, by which the appellant has been convicted for the offence punishable under Section 354 of IPC and sentenced to six months R.I. with the fine amount of Rs.2,000/- with default stipulations.

2. The prosecution case before the trial court was that on 6.2.1999, the victim was fetching water from the well of Charan Prajapati at 12:00 p.m.. Then the appellant reached there and caught hold of her hand and pressed her breasts

and abused her. On that, the victim started abusing him and after returning from the well narrated the story to her husband and on that basis FIR No.11/11 was registered at P.S. Gaisabad, District Damoh under Sections 354/323 IPC and 3(1)(XI) of S.C./S.T. (P.A.) Act, 1989.

3. After trial, the trial court had acquitted the appellant for the offence punishable under Section 3(1)(XI) of S.C./S.T. (P.A.) Act, 1989, but convicted under Section 354 of IPC, and sentenced as above.

4. Learned counsel for the appellant has argued that the case is of year 2011. At that time no minimum sentence was prescribed for the offence punishable under Section 354 of IPC, and in the same way, the trial court has sentenced to only six months R.I. This sentence be reduced to the period already undergone. Hence conviction be maintained and sentence be reduced to the period already undergone.

5. Learned counsel for the State has argued that if the conviction is maintained and fine is enhanced, she has no objection for reducing the jail sentence already undergone.

6. Perused the record. Considered on the point of sentence. Before the Criminal Amendment Act, 2013, the jail sentence was not compulsory for the offence punishable under Section 354 of IPC, and the trial court itself has sentenced the appellant for the six months R.I.

7. Looking to the fact, the age of the victim and the age of the appellant, time gap and the circumstances under which the offence was committed, the jail sentence of the appellant under Section 354 of IPC is reduced to the period already undergone. The fine amount is enhanced from Rs.2,000/- (Rupees Two Thousand) to Rs.15,000/- (Rupees Fifteen

Thousand). The appellant shall deposit the enhanced fine amount within a period of three months from the date of receipt of the order passed by this Court before the learned Trial Court below. In default of payment of fine amount, the appellant shall undergo S.I. for four months.

8. On fine being deposited, the victim shall be paid Rs.10,000/- (Rupees Ten Thousand) as compensation under Section 457 of Cr.P.C.

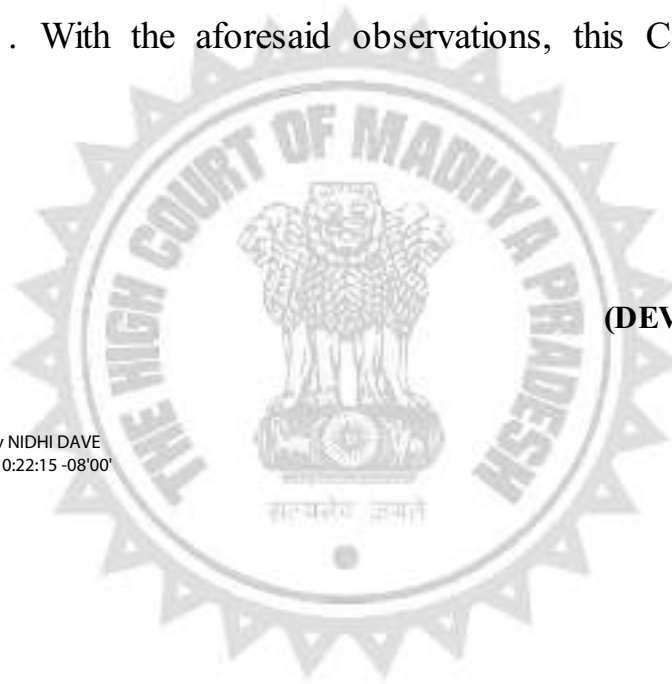
9. The record of the trial court along with the copy of the Order passed by this Court be returned back to the trial court.

10. The appellant is on bail, his bail bonds are hereby discharged.

11. With the aforesaid observations, this Criminal Appeal is partly allowed.

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Digitally signed by NIDHI DAVE
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(DEVNARAYAN MISHRA)
JUDGE