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

**BEFORE
HON'BLE SHRI JUSTICE VINAY SARAF
ON THE 29th OF DECEMBER, 2023
CRIMINAL APPEAL No. 7329 of 2021**

BETWEEN:-

**DR. PARIMAL VISHWAS S/O KALIPATH VISHWAS, AGED
ABOUT 46 YEARS, OCCUPATION: DOCTOR R/O GRAM
PONDI, THANA AND DISTT MANDLA (MADHYA
PRADESH)**

.....APPELLANT

(BY SHRI RAJESH KUMAR SEN - ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH THR. THE POLICE
STATION MANDLA DISTRICT MANDLA (MADHYA
PRADESH)**

.....RESPONDENT

(BY SHRI P. CHATTERJEE - PANEL LAWYER)

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

JUDGMENT

By the present appeal filed under Section 374(2) of the Code of Criminal Procedure, the appellant has challenged the judgment of conviction and order of sentence passed by Special Judge SC/ST Act (Attrocities), 1989, District Mandla in Special S.T. No.22/05 on 23.11.2021 whereby the appellant has been convicted under Section 341 (3 counts), 354 I.P.C. and sentenced to undergo R.I. for 1-1-1 month under Section 341 and six months R.I. under Section 354 and fine of Rs.5000/- and in default, to further undergo one month R.I.

2 . The learned counsel for the appellants has submitted that the

prosecution failed to prove the case beyond reasonable doubt. During the trial, the appellant remained in custody from 29.9.2004 to 30.9.2004 and thereafter, from 14.4.2019 to 27.4.2019. He prayed for acquittal of the appellant.

3. *Per contra*, the learned counsel appearing for the respondent/State supported the judgment and submitted that the prosecution has duly proved the incident and the learned sessions Court has rightly convicted the appellant under Sections 341 and 354 of Indian Penal Code.

4. After considering the arguments of both the parties and after perusal of record, it appears that the victim lodged the FIR at Police Station Mandla, District Mandla on 28.9.2004 against the appellant Dr.P.K. Vishwas and Gudda alias Mukesh registered as Crime No.423/2004 under Sections 323, 294, 341, 336, 506, 34 of Indian Penal Code and Section 3(1)(X) of SC/ST Act, 1989. After investigation, the police filed the charge-sheet. The prosecution examined 16 witnesses in support of their case. PW-3 victim, PW-4 second victim duly narrated the incident and involvement of the appellant in the offence. Their statements were supported by PW-5 Dinesh Kumar. The learned Special Judge, after considering the evidence available on record, by judgment dated 23.11.2021, convicted the appellant under Sections 341 and 354 of IPC and sentenced as stated herein above. After examining the statement of the witnesses and other material available on record, I do not find any reason to interfere in the findings recorded by the learned Special Judge and consequently, the judgment of conviction and sentence under Sections 341 and 325 of Indian Penal Code are hereby upheld.

5. However, looking to the facts that the incident took place in the year 2004, the appellant remained in jail for a period of 17 days and the prosecution has not brought any past criminal antecedents of the appellants on record.

There is no minimum sentence has been prescribed under Section 341 or 354 of Indian Penal Code at the time of commission of offence, therefore, I deem it proper to reduce the jail sentence of the appellant to the extent of the period which he has already undergone and accordingly, the jail sentence is reduced. However, fine is enhanced from Rs.5000/- to Rs.10,000/-. The appellant shall deposit the enhanced amount within a period of two months from today. The appellant is on bail, his personal bond and bail bond be discharged. Accordingly, the appeal is **partly allowed**.

5. Record of the trial Court be sent back along with copy of the judgment.

Priya.P



(VINAY SARAF)
JUDGE