
(2007) 05 AHC CK 0203
In the Allahabad High Court
Case No : Criminal Appeal No. 2199 of 1982

Ram Chandra

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 28-05-2007

Acts Referred:

Penal Code, 1860 (IPC) — Section 354

Citation : (2007) 05 AHC CK 0203

Hon'ble Judges : R.K.Rastogi, J

Final Decision : Disposed Of

Judgement

R.K. Rastogi, J.—This is an appeal against judgment and order dated 581982 passed by Sri B.B.L. Hajela, then Sessions Judge, Rampur in Sessions Trial No. 22 of 1982, State v. Ram Chandra.

2. The facts relevant for disposal of this appeal are that on 8 101981 at about 6.30 p.m. a F.I.R. was lodged by Babu Ram at police station Bilaspur District Rampur against the accused appellant with these allegations that Babu Ram resides in village Mahtosh police station Bilaspur and the accused also resides in the same village. On the aforesaid date he and his wife Dallo had gone to their field in the morning to do agricultural work there. Their elder daughter Phulawati had also come to their field with food for them and their younger daughter, Rama Devi aged about five years was alone at their house. They returned back to their house in the noon and then they noticed that Rama Devi was not there in the house. Then they enquired about her and started to search Rama Devi. Then they heard some cries from Chaupal of Munna Lal. Then they went towards Chaupal and saw that Ram Chandra son of Munna Lal was ravishing Rama Devi after shutting her mouth and on seeing Babu Ram and other witnesses Ram Chandra ran away towards west and could not be apprehended. Then he went to the police station alongwith his daughter and lodged the report.

3. On the basis of the said report police registered a case under Section 376 I.P.C. against the accused and investigated the same. After completion of the,

investigation chargesheet under Section 376 I.P.C. was submitted against the accused. He was charged under Section 376 I.P.C. by the Court and thereafter evidence was taken. After completion of the evidence and after taking statement of the accused, the learned Presiding Officer heard arguments of both the parties and then decided the case. He reached the conclusion in his judgment that charge under Section 376 I.P.C. was not proved against the accused and that the accused has committed offence under Section 354 I.P.C. only. He, therefore, convicted the accused under Section 354 I.P.C. and sentenced him to 18 months" R.I. and to a fine of Rs. 500/. It was further provided that in case of default in payment of fine, he shall have to undergo R.I. for three months. Aggrieved with that judgment and order the accused Ram Chandra filed this appeal.

4. I have heard learned Counsel for both the parties and perused the record.

5. The learned Counsel for the appellant made only one submission before me. He submitted that in this case the alleged offence was committed on 8101981 and after trial of the case the accused was convicted on 581982. He further submitted that charge under Section 376 I.P.C. was not found to be proved against the accused and he was convicted under Section 354 I.P.C. only. He further submitted that offence under Section 354 I.P.C. is punishable with two years R.I. only and in the present case the accused was awarded 18 months R.I. and a fine of Rs. 500/. He further submitted that fine of Rs. 500/ had already been deposited before the Magistrate and the accused appellant had already undergone imprisonment of about eleven months. He submitted that in this case the accused was not granted bail during trial and so he remained in jail for nine months and twenty days during trial of the case before the lower Court. He further submitted that accused was sentenced on 581982 and he was granted bail by this Court on 991982 and in this way the accused remained in jail in connection with the above case for about eleven months. He further submitted that the age of the accused was 18 years on 27 71982 as disclosed in his statement under Section 313 Cr.P.C. He submitted that almost a period of 25 years has passed from the date of conviction, and at present age of the accused is 43 years, and under these circumstances, so far as sentence of imprisonment is concerned, the period of eleven months" imprisonment already undergone by the accused in Jail should be treated to be sufficient imprisonment and now he should not be required to undergo remaining part of the sentence of seven months R.I., and this sentence should be commuted and substituted by the enhanced amount of fine.

6. I have also heard the learned A.G.A. appearing for the State on the point of sentence.

7. Considering the facts and circumstances as well as long gap of 25 years between the date of judgment of the trial Court and the date of hearing of this appeal, I am of the view that prayer of the learned Counsel for the accusedappellant is justified and so I, holding the period of eleven months imprisonment already undergone by the accused as sufficient sentence of

imprisonment, now order that the accused shall not be sent again to Jail to undergo the remaining part of imprisonment of about seven months and instead he shall have to pay a fine of Rs. 2,000 (Rupees two thousand). This amount of fine shall be payable by him within a period of two months from today and if any part of this amount of fine has already been deposited by him that shall be liable to be adjusted. In case of default of payment of the aforesaid amount of fine, the accused shall have to undergo sentence of imprisonment as already ordered by the trial Court.

8. The appeal is accordingly disposed of confirming the order of conviction under Section 354 I.P.C. and modifying the sentence, as ordered above.