
(2019) 06 GUJ CK 0061
In the Gujarat High Court
Case No : R/Criminal Appeal No. 463 Of 2014

Satish Udesinh Sodha Parmar

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 18-06-2019

Acts Referred:

Indian Penal Code, 1860 — Section 363, 366, 375, 376
Code Of Criminal Procedure, 1973 — Section 313

Citation : (2019) 06 GUJ CK 0061

Hon'ble Judges : R.P.Dholaria, J

Bench : Single Bench

Advocate : Ashish M Dagli, Hansa Punani

Final Decision : Partly Allowed

Judgement

Under Sections, Sentence

363, "R.I. for 5 years and fine of Rs.500/Â?, in default, further

R.I. for 1 month.

366, "R.I. for 7 years and fine of

Rs.1,000/Â?, in default, further R.I. for 2 months.

376, "R.I. for 10 years and fine of

Rs.1,000/Â?, in default, further R.I. for 2 months

appellantÂaccused were in well acquaintance for about more than 2 years. As per their plan, she left matrimonial home with the present accused and",

they wandered at different places. Ultimately, they came to be apprehended by the police. In the crossÂexamination, she admitted that she was the",

elder member of the family and she got married with Rakesh against her will and wish. She further admitted that she had no idea regarding her date of,

birth which was recorded in the school. She further admitted that for about three months she was residing with the appellant[^]accused at her own will, and volition.,

[11] As regards her age, the prosecution brought on record school leaving certificate disclosing her date of birth to be 11.10.1998 and school teacher",

has deposed that he had produced the aforesaid certificate available on record. In the cross[^] examination he admitted that in absence of any,

authentic document as regards registering date of birth they relied upon the certificate of guardian and he had no personal knowledge regarding her,

age.,

[12] The incident is alleged to have taken place on 17.09.2012 i.e. prior to amendment of the statute. With effect from 03.02.2013 a amendment was,

introduced in Section 375 and 376 of the Indian Penal Code. At the relevant time, there was minimum sentence of 7 years for such offences. It was",

also subject to imposing sentence less than minimum prescribed by recording special reasons therein.,

[13] In view of the aforesaid totality of the facts and circumstances of the case, indisputably as emerging out from the record and proceedings that the",

prosecutrix was already married with Rakesh for a year back from the date of incident and she left with the accused from her matrimonial home at,

her own will and volition. So far as her age is concerned, no conclusive evidence is available on record as the prosecution has failed to prove",

authenticity of school leaving certificate, so far as the date of birth of the prosecutrix is concerned. In that view of the matter, as regards her age, no",

satisfactory evidence is available on record.,

[14] In view of the peculiar facts and circumstances of the case, this Court is inclined to reduce the sentence to the extent that the appellant[^]?",

accused has already undergone. In that view of the matter by recording aforesaid special reasons while upholding the conviction so imposed upon the,

appellant[^]?accused, the sentence so imposed is reduced to the extent the appellant[^]?accused has undergone.",

[15] For the reasons recorded above, the appeal stands partly allowed. While maintaining his conviction under Sections 363,366,376 of the IPC, the",

sentence so imposed by the learned trial Court is reduced to the extent of sentence already undergone. Now, he is not required to surrender to serve",

out any sentence. The entire case stands closed. Bail bonds, if any, stand cancelled. R & P be sent back to the learned trial Court, forthwith."