

(2013) 10 RAJ CK 0055
In the Rajasthan High Court
Case No : Criminal Appeal No. 92 of 2011

Shri Rajesh @ Damodar @ Dilip @ Raj Singh	APPELLANT
Vs	
State of Rajasthan	RESPONDENT

Date of Decision : 23-10-2013

Acts Referred:

Citation : (2013) 10 RAJ CK 0055

Hon'ble Judges : Prashant Kumar Agarwal, J

Bench : Single Bench

Advocate : Rajneesh Gupta, for the Appellant; J.R. Bijarnia, Public Prosecutor, for the Respondent

Final Decision : Partly Allowed

Judgement

Prashant Kumar Agarwal, J.—Heard learned counsel for the parties. The accused-appellant has preferred this appeal u/s 374 Cr.P.C. against the judgment of conviction and order of sentence dated 16.12.2010 passed by Special Judge, Women Atrocities & Dowry Cases, Jaipur City, Jaipur in Sessions Case No. 133/2002 whereby the accused-appellant has been convicted and sentenced as under:

2. It was further ordered that all the substantive sentences awarded to the accused-appellant shall run concurrently.

3. Being aggrieved by the conviction and sentence awarded by the trial Court, the appellant has filed this appeal u/s 374 Cr.P.C. it is to be noted that by the same judgment and order, the learned trial Court has convicted Shri Harish, Shri Yogesh and Shri Islam also and they have also filed separate appeals, which are pending before this Court.

4. Learned counsel for the appellant submitted that having served the substantial part of the sentence awarded to the appellant for the offences punishable u/s 376 & 376 read with Section 120B IPC, now he does not want to challenge his conviction. Learned counsel further submitted that the appellant has already

served/undergone the period of more than seven years of imprisonment as against the maximum sentence of ten years awarded by the trial Court. It was further submitted by the learned counsel that the appellant has already served the minimum sentence of seven years prescribed for the aforesaid offences. It was prayed that the substantive sentences awarded to the appellant for the offences u/s 376 & 376 read with Section 120B IPC may be reduced/modified to the extent of sentence already undergone by the appellant.

5. Learned Public Prosecutor did not seriously oppose the prayer made on behalf of the present appellant.

6. As submitted, the conviction of the appellant for the aforesaid offences is thus maintained and the appeal filed by him to that extent is, hereby, dismissed. So far as the sentence part of the judgment is concerned, it is a fact that the appellant has already served/undergone more than seven years imprisonment out of ten years awarded by the trial Court for the offences u/s 376 & 376 read with Section 120B IPC. It is an admitted fact that minimum sentence prescribed for the aforesaid offences is seven years imprisonment and the same has already been served/undergone by the appellant. I am of the considered view that it would serve the interest/ends of justice if the prayer made on behalf of the appellant is accepted. Thus, the substantive sentence imposed upon the accused-appellant Rajesh @ Damodar @ Dilip @ Raj Singh S/o Shri Ghanshyam for the offences u/s 376 & 376 read with Section 120B IPC is reduced and modified from ten years imprisonment to the period already undergone by him. So far as the sentence of fine and default sentence is concerned, no interference is required to be made in it and the same is maintained. With this modification as aforesaid, the appeal to that extent is partly allowed and stands disposed of as such. It is made clear that affirmation of conviction of the appellant for the aforesaid offence by this Court on the basis of concession made on behalf of the appellant would not in any way adversely affect the final outcome of the appeals filed by the other appellants.