
(2009) 01 DEL CK 0214
In the Delhi High Court
Case No : Criminal A. No. 374 of 1999

Tejpal	Vs	APPELLANT
State of NCT of Delhi		RESPONDENT

Date of Decision : 27-01-2009

Acts Referred:

Citation : (2009) 01 DEL CK 0214

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : Sumeet Verma, for the Appellant; Amit Sharma, Additional Public Prosecutor, for the Respondent

Judgement

Sunil Gaur, J.—In this appeal, appellant stands convicted and sentenced by the trial court vide judgment and order of 13th and 15th April,

1998 respectively for the offence of rape and its allied offences, to rigorous imprisonment for a period of seven years with fine. The details of

which are find mentioned in the impugned judgment and order.

2. On 25th March, 1996, appellant was aged about twenty years and the prosecutrix, a married lady, aged about twenty two years, was

purportedly abducted by the appellant and was subjected to forcible sexual intercourse. The appellant was tried for the offence of rape etc and

after the trial, he has been convicted and sentenced as noticed above.

3. Although the stand of the appellant in this appeal was of prosecutrix being a consenting party but this appeal is being rightly not pressed on

merits by learned Counsel for the appellant as the aforesaid plea stands negated by the trial court for good reasons.

4. On the quantum of sentence, Learned Counsel for the appellant stated that

the appellant is on bail since the year 2001 and he has got clean antecedents and at the time of this incident, the appellant was aged 19 or 20 years and by now he is aged about 30 years and is married and has got a minor daughter of about three and a half years to support and is sole bread earner of his family. It is also stated that the appellant has faced the agony of the trial and appeal proceedings for the last thirteen years. The appellant has already remained behind the bars in this case for a period of six years and four months out of the sentence of seven years awarded to him. It is also stated that the prosecutrix was a married lady aged about 22 years and the case of the appellant before the trial court was of consent. Thus it is submitted that a good case is made out for reducing the sentence of the appellant to the period already undergone by him as the aforesaid circumstances constitute adequate reasons for reducing the sentence of the appellant by eight months or so.

5. In view of the aforesaid stand taken, nominal roll of the appellant was called for and it reveals that the unexpired portion of the sentence of the appellant was just seven months and few days. Learned Counsel for the appellant placed on record a receipt showing that the fine of rupees ten thousand imposed by the trial court has been deposited. The conduct of the appellant in the jail was satisfactory. Since the appellant is on bail from July, 2001, it would be too harsh to send him behind bars now just for seven months or so.

6. Considering the peculiar facts and circumstances of this case, it is deemed appropriate that the substantive sentence imposed upon the appellant is reduced from seven years to six years and three months, i.e. the period already undergone by him in judicial custody, as the aforesaid reasons put forth on behalf of the appellant are considered adequate for reducing the sentence to the period already undergone by the appellant. It is ordered accordingly. Appellant is on bail. His bail bond and surety bonds are discharged.

7. This appeal stands partly allowed to the extent indicated above.