



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 406 OF 2019

SHEIKH SADIK

Appellant(s)

VERSUS

THE STATE OF MADHYA PRADESH & ANR.

Respondent(s)

O R D E R

1. Heard Mr. S K Gangele, learned senior counsel appearing for the appellant, Mr. Yashraj Singh Bundela, learned counsel appearing for the State and Ms. Priya Sharma, learned counsel appearing for the complainant.

2. The appellant was tried for the offence punishable under Section 376 of the Indian Penal Code. The learned First Additional Sessions Judge, East Nirmar, Khandwa, Madhya Pradesh acquitted the appellant-accused. In the appeal filed by the State, the High Court had reversed the same and convicted the appellant and sentenced him to undergo rigorous imprisonment for life.

3. Section 376 of the Indian Penal Code as it

existed then reads thus:

"376.(1) Whoever, except in the cases provided for by sub-section(2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which case, he shall be punished with imprisonment of either description for a term which may extend to two years with fine or with both:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years."

4. It could thus be seen that, though the minimum sentence to be awarded was seven years, discretion is vested with the Court that for adequate and special reasons to be mentioned in the judgment, the Court may impose a sentence of imprisonment for a term of less than 7 (seven) years.

5. The prosecutrix has also appeared in the matter through the counsel. She has stated that she is happily married and is not interested in pursuing the matter further.

6. The appellant has already undergone sentence of more than 5 (five) years.

7. Taking into consideration the facts and circumstances of the present case and proviso to then Section 376, we maintain the conviction under Section 376 of the Indian Penal Code. However, we find that the sentence already undergone will be sufficient to subserve the ends of justice.

8. The appeal is, therefore, partly allowed. The order of conviction is maintained. However, the appellant's sentence is reduced to the sentence already undergone. The appellant is directed to be released forthwith, if not required in any other case.

9. Pending applications, if any, stand disposed of.

.....J
(B.R. GAVAI)

.....J
(PAMIDIGHANTAM SRI NARASIMHA)

.....J
(ARAVIND KUMAR)

New Delhi
November 08, 2023

ITEM NO.113

COURT NO.4

SECTION II-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 406/2019

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THE STATE OF MADHYA PRADESH & ANR.

Respondent(s)

Date : 08-11-2023 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s)

Mr. S K Gangele, Sr. Adv.
Mr. Prathvi Raj Chauhan, Adv.
Ms. Priya Sharma, Adv.
Mrs. Barnali Basak, Adv.
Mr. Satish Kumar, AOR

For Respondent(s)

Mr. Yashraj Singh Bundela, AOR
Mr. Ajay Sharma, Adv.
Mr. Pawan, Adv.
Ms. Jyoti Verma, Adv.

Ms. Priya Sharma, Adv.
Mr. Arjun Sain, Adv.
Ms. Shashi Kiran, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. The appeal is partly allowed in terms of the signed order.
2. Pending application(s), if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(ANJU KAPOOR)
COURT MASTER (NSH)

[Signed order is placed on the file]