



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal No. of 2024
(Arising out of SLP (Crl.) No. 8028/2023)

Didde Srinivas

....Appellant

Versus

State SHO, Podduru Police Station and Anr.

....Respondents

J U D G M E N T

C.T. Ravikumar, J.

Leave granted.

1. This appeal by special leave is directed against the judgment and order dated 16.3.2023 passed by the High Court of Andhra Pradesh at Amravati in CRRC No. 1937/2004.
2. The appellant stood the trial in Sessions Case No. 109/2000 before the Court of Assistant Sessions Judge, Narasapur. The Trial Court convicted the appellant under Section 376 read with Section 511 besides under Section 451, of the Indian Penal Code, 1860 (IPC) and sentenced him for rigorous imprisonment (R.I.) for three years for the offence of 'rape' and R.I. for one year and a fine of Rs. 200/- for the offence under Section 451, IPC. The sentences were ordered to be run concurrently.
3. In appeal, Court of VIth Additional and Sessions Judge (Fast Track Court), Narasapur, West Godavari District confirmed the conviction and

sentence on the appellant under Section 451 IPC and modified the conviction and sentence under Section 376 IPC to one under Section 354 IPC. Consequently, for the conviction therefor, he was sentenced to undergo R.I. for two years. The fine imposed for the conviction under Section 376 was maintained in regard to conviction under Section 354, IPC. It is challenging the same that the revision petition was filed which culminated in the impugned judgment. As per the impugned judgment, the conviction and the sentence for both the offences were confirmed by the High Court.

4. Heard learned senior counsel for the appellant and learned counsel for the respondent State. The materials on record would reveal that the conviction of the appellant for the offence under Section 451, IPC is concurrent based on the uncontroverted oral testimonies of PWs 4 and 5. The appellant failed to establish perversity whatsoever in regard to the conclusion arrived at based on their testimonies that the appellant had committed house-trespass. But then, the conviction of the appellant is not for house-trespass simpliciter punishable under Section 448, IPC and it is under Section 451, IPC. Hence, the next question is whether he did so, in order to commit any offence punishable with imprisonment or the offence of theft. As the only other offence for which the appellant was ultimately convicted is under Section 354, IPC the answer to the above question would depend upon the confirmation or otherwise of the conviction of the appellant for the offence under Section 354, IPC. Here again, the finding is founded on the oral testimonies of PWs 4 and 5. The creditworthy testimonies of PWs 4 and 5 were, according to us, rightly believed by the courts below. The expression 'in order to the committing of any offence punishable with imprisonment' used in Section 451 would reveal

that an intention to commit such an offence following house-trespass would justify a conviction thereunder.

5. In the case on hand, the Appellate Court modified the conviction under Section 376, IPC to one under Section 354, IPC and it got conformance from the High Court. On scanning the evidence of PWs 4 and 5, we do not find any reason much less perversity warranting interference with conclusion arrived at based on appreciation of their evidence in relation to the said offence. Resultantly, we maintain the conviction of the appellant under Section 354, IPC. In view of the position that even an intention to commit an offence punishable with imprisonment' coupled with house-trespass would constitute the offence punishable under Section 451, IPC a conviction for the offence under Section 354, IPC and the consequential imposition of sentence to undergo imprisonment for a term would leave us with no option but to confirm the conviction for the offence under Section 451, IPC. Hence, it is also maintained.

6. In such circumstances, the only surviving question to be considered is whether the sentence of R.I. for 2 years imposed for the conviction under Section 354, IPC by the Appellate Court that was confirmed by the High Court deserves a further reduction of sentence, as prayed for. After hearing the learned counsel on both sides and taking into account the evidence on record, and further taking note of the fact that originally there was no prescription of minimum sentence for corporeal punishment for the conviction under Section 354, IPC on the date of commission of the said offence, we are inclined to consider the prayer to reduce the sentence from two years.

7. The learned senior counsel for the appellant also submitted that the

sentence imposed for the conviction under Section 451 IPC may also be reduced. The learned counsel for the appellant further submitted that the appellant had undergone 64 days of incarceration and hence, the sentence for the conviction for the aforesaid offences may be reduced to the period of imprisonment already undergone. Though, we are inclined to consider the prayer for reduction of sentence, we are of the considered view that the prayer for reducing the corporeal sentence to the period of 64 days already undergone would not be the proportionate punishment for the conviction under Section 354 of the IPC. The very proven case of the prosecution is that the appellant had committed the aforesaid offences taking advantage of the situation that the victim alone was present her house, at 3.00 PM on 29.01.1999. Later, the victim committed suicide. There was no charge against the appellant under Section 306 IPC and the same, though charged against the co-accused of the appellant he was acquitted. Taking note of the nature and gravity of the offences committed by the appellant, but then, the absence of antecedents, that more than 25 years had lapsed since the incident, that the appellant was then a boy aged 21 years, we are of the considered view that reducing the sentence for the conviction under Section 354, IPC from 2 years R.I. to 1 year R.I would be the comeuppance for the commission of the aforesaid offence. It is ordered accordingly.

8. Now, we will deal with the prayer for reduction of sentence for the conviction under Section 451, IPC. Since following house-trespass the appellant had committed the offence under Section 354, IPC punishable with imprisonment, we maintain the sentence of R.I. of one year imposed on the appellant for the conviction under Section 451, IPC.

9. In the said circumstances, this appeal is partly allowed. We confirm the conviction of the appellant under Section 451 and the sentence imposed therefor and also the conviction under Section 354, IPC. However, for the reasons as aforesaid we reduce the sentence imposed for the conviction under Section 354, IPC from R.I. for two years to R.I. for one year. Both the sentences of imprisonment shall run concurrently. The sentence of fine imposed as relates conviction under Section 354, IPC is maintained.

10. The appellant shall surrender before the Trial Court within four weeks from today to serve out the remaining sentence. In case, the appellant does not surrender before the Court within the aforesaid period, he shall be taken into custody for serving the remaining period of sentence, in accordance with law.

11. Pending application(s), if any, stands disposed of. Registry shall forward a copy of the judgment to the Trial Court for appropriate action.

.....J.
(C.T. RAVIKUMAR)

.....J.
(SANJAY KAROL)

New Delhi;
November 13, 2024