

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Appeal No. 329/1997

1. Himta S/o Narsa, resident of Maldar, Police Station Ognā,
District Udaipur.
2. Deeta S/o Veerma
3. Homa S/o Veerma, both residents of Maldar, Police Station
Ognā, District Udaipur.

----Appellant

Versus

State of Rajasthan

----Respondent

For Appellant(s)	:	Mr. Harshvardhan Singh
For Respondent(s)	:	Mr. Shri Ram Choudhary, PP

HON'BLE MR. JUSTICE FARJAND ALI

Order

23/04/2026

1. The instant criminal Appeal under Section 374 of the CrPC has been preferred by the appellants being aggrieved of the judgment dated 31.05.1997 passed by the learned Sessions Judge, Udaipur in Sessions Case No.119/1996, whereby they were convicted for the offences under Sections 366 of the IPC and, sentenced to undergo rigorous imprisonment of 2 years alongwith a fine of Rs.500/- each and in default of payment of fine, further to undergo simple imprisonment of 3 months.
2. Bereft of elaborate details, facts relevant and essential for disposal of the instant criminal appeal are that on 17.06.1995 Khuman Singh lodged a report at the Police Station Ognā, alleging that his sister aged about 15 years used to work as a labour, was forcibly taken away on 15.06.1995 while returning from work

along with other labourers, namely Gulab Singh, Sita and others. It was alleged that the accused-appellants alongwith one Gulab Singh, accosted them and abducted the girl. Subsequently, Rupa and Narsa also joined in the commission of the alleged offence. Upon receiving information, the complainant and family members pursued the accused, whereupon the accused left the girl in a house and fled. Thereafter, the complainant brought the girl back home and reported the incident to the police. Upon the aforesaid information, police registered FIR No.54/1995, P.S.-Ogna against the appellants for the offence punishable under Sections 341, 342, 366 and 323 of the IPC and started investigation.

3. Upon completion of investigation, the police filed a challan against the accused-appellants for offence under Sections 342 and 366 read with Section 34 of the IPC, whereafter the case was committed to the Court of Sessions for trial.

4. The learned Sessions Judge, Udaipur framed charges against the appellants for offence under Section 366 of the IPC and upon denial of guilt by them, commenced the trial. During the course of trial, the prosecutrix, Smt. Babu, was subjected to medical examination, wherein her age was opined to be above 18 years. In support of its case, the prosecution examined as many as 8 witnesses. It was brought on record that the prosecutrix was a grown-up girl of about 18 years of age and the defence raised doubt on the prosecution story by contending that it is improbable that she could have been forcibly taken away in the presence of several persons and further, that the accused would leave her unattended in a house, thereby enabling her to subsequently report the matter.

5. After hearing the learned Public Prosecutor as well as the learned defence counsel and upon a meticulous appreciation of the evidence available on record, the learned trial court convicted the appellants for the offence under Section 366 of the IPC vide judgment dated 31.05.1997. Being aggrieved by the said judgment of conviction, the appellants have preferred the present appeal before this Court.

6. After arguing the case on merits to some extent, learned counsel appearing for the appellants submits that they will not assail conviction of the appellants and confines their arguments to the alternative prayer of reduction of the sentence awarded by the trial court. He submits that the incident in the present case pertains to the year 1997. The maximum sentence awarded by the trial court is rigorous imprisonment of 2 years. They have already remained in custody for some time during trial and after passing of the judgment by appellate forum. With these submissions, learned counsel prays that by taking a lenient view, the sentences awarded to the appellants may be reduced to the period already undergone.

7. Learned public prosecutor has, of course, been able to defend the case on merits but does not refute the fact that the appellants have remained behind the bars for significant time.

8. Since the criminal appeal against conviction is not pressed and after perusing the material, nothing is noticed which requires interference in the finding of guilt reached by learned trial court, this court does not wish to interfere in the judgment of conviction. Accordingly, the judgment of conviction is maintained.

9. The right to speedy and expeditious trial is one of the most valuable and cherished rights guaranteed under the Constitution. The appellants have already suffered the agony of protracted trial, spanning more than two years and have been in the corridors of the court for this prolonged period. The sentence awarded by the court below is 2 years' rigorous imprisonment for each count. The appellants have remained incarcerated for some period. In view of the facts noted above, the case of the appellants deserves to be dealt with leniency. The appellants also deserves the benefit of the consistent view taken by this court in this regard. Thus, guided by the judicial pronouncements made by the Hon'ble Supreme Court in the cases of **Haripada Das Vs. State of West Bangal** reported in **(1998) 9 SCC 678** and **Alister Anthony Pareira vs. State of Maharashtra** reported in **2012 2 SCC 648** and considering the facts and circumstances of the case, age of appellants, period of incarceration, their status in the society and the fact that they faced financial hardship and had to go through mental agony, this court is of the view that ends of justice would be met, if sentences imposed upon the appellants for each count are reduced to the one already undergone by them.

10. Accordingly, the judgment of conviction dated 31.05.1997 passed by the learned Session Judge, Udaipur in Sessions Case No.119/1996 is affirmed but the quantum of sentence awarded by the learned trial court for the offence under Section 366 of the IPC, is modified to the extent that the sentence the appellants have undergone till date would be sufficient and justifiable to serve the interest of justice. The appellants are on bail. They need not surrender. Their bail bonds are discharged.

11. The criminal appeal is partly allowed. Pending applications, if any, are disposed of.

(FARJAND ALI),J

36-Arjun/-