

CASE NO.:  
Appeal (crl.) 334 of 2008

PETITIONER:  
LAXMAN

RESPONDENT:  
STATE OF M.P. & ANR.

DATE OF JUDGMENT: 18/02/2008

BENCH:  
CJI K.G. BALAKRISHNAN & R.V. RAVEENDRAN

JUDGMENT:  
JUDGMENT

O R D E R  
( arising out of SPECIAL LEAVE PETITION (CRL.)NO.1772 OF 2004)

1. Leave granted. Delay condoned.
2. Heard learned counsel for the appellant and counsel for the State.
3. The appellant was tried by the Special Judge, Gwalior (M.P.) for offences punishable

under Section 354 I.P.C. and Section 3(1)(11) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act and was sentenced to undergo six months rigorous imprisonment with a fine of Rs.300/-. The case against the appellant was that he caught hold of the hands of the Prosecutrix (PW 1). who belonged to a Schedule Caste, kissed her and fondled her.

4. Learned counsel for the appellant submitted that the Prosecutrix was not a member of Scheduled Caste. He has produced the order issued by the District Collector, Gwalior to

the effect that Maruti Rao (father of the prosecutrix -PW 2) was not a member of Schedule Caste and the Caste Certificate issued in his favour was cancelled.

5. The learned Counsel for the State submitted that PW 1 and PW 2 gave evidence that they belonged to Scheduled Caste and that was not controverted at the time when they were examined. It is quite possible that the appellant also assumed that PW 1 and 2 to be members of a Scheduled Caste in view of the then certificate but later came to know that the

prosecutrix was not a member of a Scheduled Caste. Therefore, the offence under Section 3(1)(11) is not sustainable. What remains proved is only the offence under Section 354 I.P.C. relating to outraging of modesty.

6. The appellant was hardly 18 years of age when the incident occurred. He has undergone imprisonment for a period of 15 days. Having regard to the facts and circumstances, the age of the prosecutrix and the accused, we are of the view that the sentence of imprisonment for six months should be modified to what is already undergone by the appellant subject, however, to increase in the fine imposed, from Rs.300/- to Rs.10,000/-. The appellant shall deposit the fine of Rs.10,000/- before the Special Judge, Gwalior within a period of a month failing which the appellant shall undergo further imprisonment for a period of three months. The said fine amount shall be paid to Prosecutrix by the Special Judge.

The appeal is disposed of accordingly.