

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.334 OF 2008
(@SPECIAL LEAVE PETITION (CRL.)NO.1772 OF 2004)

LAXMAN

Appellant(s)

VERSUS

STATE OF M.P. & ANR.

Respondent(s)

ORDER

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
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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

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the effect that Maruti Rao (father of the prosecutrix -PW 2) was not a member of

Scheduled 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.

.....CJI.
(K.G. BALAKRISHNAN)

.....J.
(R.V. RAVEENDRAN)

NEW DELHI;
th
18 FEBRUARY, 2008.

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ITEM NO.39

COURT NO.1

SECTION IIA

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).1772/2004
(From the judgement and order dated 29/07/2003 in CRLA No. 577/1998 of The HIGH COURT
OF M.P. AT GWALIOR)

LAXMAN Petitioner(s)

VERSUS

STATE OF M.P. & ANR. Respondent(s)
(With appln(s) for c/delay in filing SLP,exemption from filing O.T.,permission to place addl.
documents on record and office report)

Date: 18/02/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Petitioner(s) Mr. Ashwani Kumar,Adv.

For Respondent(s) Mr.Siddhartha Dave, Adv.
For Ms. Vibha Datta Makhija,Adv.

UPON hearing counsel the Court made the following
ORDER

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Application for exemption from filing O.T. is granted.

Leave granted. Delay condoned.

Heard learned counsel for the appellant and counsel for the State.

Appeal is disposed of, in terms of the signed order.

(G.V.Ramana)

(Veera Verma)

Court Master

Court Master

(signed order is placed on the file)