

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

RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 1130 OF 2005

TEJPAL Appellant (s)

VERSUS

STATE OF M.P. Respondent(s)

(With appln(s) for exemption from filing O.T.,bail & office report)

Date: 21/02/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Appellant(s) Mr. U.U. Lalit, Sr. Adv.

Mr. Sudhir Nandrajog,Adv.

Mr. Abhishef Agarwal, Adv.

For Respondent(s) Mr. Vishwajeet Singh, Adv.

Mr. C.D. Singh,Adv.

Ms. Kiran Suvarna, Adv.

Dr. Indra Pratap Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

The appeal is allowed in part, conviction under Section 376, IPC is set aside and the appellant is convicted under Section 354, IPC. It has been stated that the appellant has remained in custody for a period of about thirteen months. In the facts and circumstances of the case we are of the view that ends of justice would be met in case the appellant is awarded sentence of imprisonment for the period

IPC already undergone. The appellant is convicted under Section 354, and sentenced of imprisonment for the period already undergone. The appellant, who is in custody, is directed to be released forthwith, if not required in connection with any other case.

[Charanjeet Kaur] [Om Prakas
Court Master Court Ma
ster

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1130 OF 2005

Tejpal .. Appellant(s)
Versus
State of M.P. .. Respondent(s)

O R D E R

Heard learned counsel for the parties.

The appellant was convicted by the trial Court under Section 376 of the Indian Penal Code (for short, "IPC") and sentenced to undergo rigorous imprisonment for a period of seven years and to pay fine of Rs. 1,000/-, in default, to undergo further imprisonment for a period of one year. On appeal being preferred, the High Court confirmed the conviction. Hence, this appeal by special leave.

From the bare perusal of first information report, it would be clear that a case under Section 354, IPC alone is made out and no

case under section 376, IPC is made out. It appears that a case of rape has been alleged for the first time after eleven days of the occurrence for which no explanation is forthcoming. In our view, the trial Court was not justified in convicting the

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appellant under Section 376, IPC and the High Court has committed an error in upholding the same. Only the offence under Section 354, IPC is made out on the facts alleged and proved.

Accordingly, we allow the appeal in part, set aside the conviction under Section 376, IPC and convict the appellant under Section 354, IPC. It has been stated that the appellant has remained in custody for a period of about thirteen months. In the facts and circumstances of the case we are of the view that ends of justice would be met in case the appellant is awarded sentence of imprisonment for the period already undergone. The appellant is convicted under Section 354, IPC and sentenced of imprisonment for the period already undergone. The appellant, who is in custody, is directed to be released forthwith, if not required in connection with any other case.

.....J
[B.N. AGRAWAL]

.....J

[A.K. MATHUR]

.....J

[DALVEER BHANDARI]

NEW DELHI ,

FEBRUARY 21,2006.