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IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 701 OF 2014  
(Arising out of SLP (CRL.)No.5491 of 2013)

RAHMAN

Appellant(s)

VERSUS

STATE OF KERALA

Respondent(s)

O R D E R

Leave granted.

The appellant was, along with two other accused, prosecuted and convicted for offences punishable under Sections 457, 380 read with Section 34 of the Indian Penal Code. Each one of the accused was sentenced to undergo imprisonment for a period of six months.

An appeal, preferred against the conviction and sentence having failed the appellant appears to have filed Criminal Revision petition No.880 of 2000 before the High Court of Kerala at Ernakulam which petition has been dismissed by the High Court in terms of its order dated 2nd April, 2008 thereby upholding the conviction and sentence awarded to the appellant herein. The present appeal assails the said order.

When the matter initially came up before us on 5th July, 2013, we issued notice to the respondent-State limited to the question of quantum of sentence awarded to the appellant. We have accordingly heard learned counsel for the parties at some length on that limited question. The offence in the present case was committed as early as in the year 1993. The trial court took four years or so to conclude the trial. An Appeal and the revision, preferred against the conviction and sentence, took another decade and a half for disposal. That apart the appellant has already undergone imprisonment for nearly one month out of the six months awarded to him. We are also told that although the offences with the appellant has been charged and found guilty are not compoundable yet there has been an amicable settlement between the complainant and the appellant herein. This is evident from an affidavit filed by Sathiyabama wife of the complainant in the case. Learned counsel for the appellant argues that the appellant has no criminal antecedent and is currently working in the Middle-East. We are also told that the appellant has already paid the value of the stolen goods which was assessed at Rs.7610/-.

In the totality of the circumstances, therefore, we are inclined to modify the sentence awarded to the appellant suitably. We accordingly allow this appeal and modify the judgment and order under appeal and sentence the appellant to the period already undergone. The appellant shall in addition pay a fine of Rs.10,000/- (Rupees Ten Thousand). In default of payment of fine, the appellant shall undergo imprisonment for a period of three months.

The appeal is with the above modification disposed of.

.....J.  
(T.S. THAKUR)

.....J.  
(C. NAGAPPAN)

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

Petition(s) for Special Leave to Appeal (Cr1) No(s).5491/2013

(From the judgement and order dated 02/04/2008 in CRLRP No.880/2000, of The HIGH COURT OF KERALA AT ERNAKULAM)

RAHMAN Petitioner(s)

VERSUS

STATE OF KERALA Respondent(s)

(With appln(s) for bail, permission to compound the offence and office report)

Date: 28/03/2014 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR  
HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s) Mr. Adolf Mathew, Adv.  
Mr. Koshy Jacob, Adv.  
Mr. Sanjay Jain, Adv.

For Respondent(s) Ms. Liz Mathew, Adv.  
Mr. M.f. Philip, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

In terms of the signed order, the appeal is allowed and disposed of with the modification of the order impugned, to the extent indicated in the signed order:

"In the totality of the circumstances, therefore, we are inclined to modify the sentence awarded to the appellant suitably. We accordingly allow this appeal and modify the judgment and order under appeal and sentence the appellant to the period already undergone. The appellant shall in addition pay a fine of Rs.10,000/- (Rupees Ten Thousand). In default of payment of fine, the appellant shall undergo imprisonment for a period of three months.

The appeal is with the above modification disposed of."

|(Mahabir Singh)  
| Court Master

|(Veena Khera)  
| Court Master

(Signed order is placed on the file)