

ITEM NO.3

COURT NO.11

SECTION IIA

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

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (CRL.) NO(S). 4183/2013  
(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 06/11/2012  
IN CRLR NO. 338/2009 PASSED BY THE HIGH COURT OF M.P AT GWALIOR)

STATE OF M.P.

Petitioner(s)

VERSUS

DHARMENDRA

Respondent(s)

(WITH APPLN. (S) FOR EXEMPTION FROM FILING O.T. AND OFFICE REPORT)

Date : 05/08/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE M.Y. EQBAL

For Petitioner(s)

Ms. Musharraf Chaudhary, Adv.

Ms. Ayesha Chaudhary, Adv.

Mr. C. D. Singh, Adv.

For Respondent(s)

Mr. Aldanish Rein, Adv.

Ms. S. Rein, Adv.

Ms. M. Rein, Adv.

For Mr. S. K. Sabharwal, Adv.

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

Heard learned counsel for the parties.

Exemption from filing O.T. is granted.

Leave granted.

The appeal is disposed of in terms of the signed  
order.

[VINOD LAKHINA]  
COURT MASTER

[SNEH LATA SHARMA]  
COURT MASTER

Signature Not Verified

Digitally signed by  
Vinod Lakhina  
Date: 2014.08.06  
10:02:33 IST

[SIGNED ORDER IS PLACED ON THE FILE]

Reason:

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IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1632 OF 2014  
[Arising out of Special Leave Petition  
(Criminal) No.4183 of 2013]

STATE OF M.P.

...APPELLANT

VERSUS

DHARMENDRA

...RESPONDENT

ORDER

Heard learned counsel for the parties.

Exemption from filing O.T. is granted.

Leave granted.

The challenge herein is against the judgment and order dated 6th November, 2012 passed by the High Court of Madhya Pradesh, Bench at Gwalior in Criminal Revision No.338 of 2009 by which the High Court while maintaining the conviction of the respondent accused - Dharmendra under Section 304A of the Indian Penal Code, 1860

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(for short "IPC") had altered the sentence from rigorous imprisonment of six months awarded by the learned Chief Judicial Magistrate, Bhind, M.P. as affirmed by the 3rd Additional Sessions Judge, Bhind, M.P. to the period of 8 days undergone. Aggrieved, the State of Madhya Pradesh is in appeal before us.

Under Section 304A of the IPC, punishment of imprisonment for a term which may extend to two years or with fine or both is contemplated. Following the conviction, it is the judicial discretion of the Court to award punishment that is commensurate with the gravity of the offence committed and the circumstances surrounding such commission. Under Section 304A IPC, though punishment by way of fine alone is also contemplated, the High Court while maintaining the

conviction did not alter the punishment to one of fine. Instead, it was of the view that in the

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facts of the case before it, punishment by way of imprisonment would be justified. However, after holding so, the High Court altered the period of imprisonment to one of 8 days i.e. the period undergone.

If, according to the High Court, in the facts of the case, imposition of the punishment of imprisonment was justified and under Section 304A IPC such imprisonment could have been upto the period of two years, we fail to see how the High Court could have satisfied itself that the imprisonment should be for a period of 8 days only. No specific reason has been assigned and the conclusions are bald and omnibus. There is an apparent error in the conclusion of the High Court which is devoid of any reasoning.

In the above view of the matter, we set aside the order of the High Court and restore the sentence awarded by the learned trial Court.

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The respondent accused - Dharmendra shall surrender before the learned trial Court within a period of two weeks from the date of receipt of a copy of this order, failing which he will be taken into custody to serve out the remaining part of the sentence.

The appeal is disposed of in the above terms.

.....,J.  
(RANJAN GOGOI)

.....,J.  
(M.Y. EQBAL)

NEW DELHI  
AUGUST 05, 2014