

IN THE SUPREME COURT OF INDIA
 CRIMINAL APPELLATE JURISDICTION
 CRIMINAL APPEAL NO. 1936 OF 2014
 (Arising out of SLP(Cr1.)No.3777 of 2013)

STATE OF M.P. ... APPELLA
 NT(S)

VERSUS

RAMAVTAR ...RESPOND
 ENT(S)

O R D E R

Leave granted.

Despite service of notice, nobody has chosen to appear on behalf of the respondent.

The only question that needs consideration is as to whether the appellate court or the High Court can reduce the sentence of an accused to the period already undergone by him/her despite the specific provision given in the Indian Penal Code (for short the 'IPC') for a minimum sentence in case the accused is found guilty of that offence.

Here is the case where the Additional Sessions Judge,

Signature Not Verified

Digitally signed by Sanjay Kumar
 Date: 2014.09.11

nt dated 16:45:45 IST
 Reason:

Gohad, District Bhind, Madhya Pradesh, by judge

30.07.2008, affirmed the order of conviction and sentence

dated 24.08.2007 passed by the learned JMFC, Gohad, in

Criminal Case No.201 of 2000 whereby the accused-respondent

herein was found guilty of the offence punishable under

Section 304-A IPC and sentenced to undergo rigorous imprisonment for six months and pay a fine of Rs.500/- with default clause and dismissed the Criminal Appeal No.97/07 preferred by the accused-respondent. Aggrieved by the same, the accused-respondent preferred Criminal Revision No.523 of 2008 before the High Court of Madhya Pradesh.

By order dated 06.11.2012, the High Court while maintaining the conviction of the accused-respondent, reduced the sentence to the period of 30 days which he has already undergone and partly allowed the revision.

This Court decided the same issue in detail in number of cases. In a very recent judgment pronounced on 26.08.2014 in Crl.A. No.1845 of 2014, titled 'State of Madhya Pradesh vs. Bablu', this Court observed that merely because the accused was the first offender, reducing the sentence of the accused to the period already undergone would lead to a situation where the accused who commits such offence, will be emboldened and repeat such crime, which would prove detrimental to the society. It further observed that reducing the sentence to the period already undergone would lead to miscarriage of justice.

In view of the above, we are of the opinion that the court has no jurisdiction to pass such order when the law specifically provides for a minimum sentence to be awarded in case the accused is found guilty.

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Considering the legal position as indicated above, the impugned order passed by the High Court is clearly unsustainable and is accordingly, set aside. The respondent is directed to surrender to custody forthwith to serve the remainder of sentence.

The appeal is allowed to the extent indicated above.

