

ITEM NO.13

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). 5318/2013
(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 06/11/2012
IN CRLR NO. 629/2007 PASSED BY THE HIGH COURT OF M.P AT GWALIOR)

STATE OF M.P.

Petitioner(s)

VERSUS

KAMLESH SINGH & ORS.

Respondent(s)

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

Date : 09/09/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s)

Mr. Arvind Varma, Sr. Adv.
Ms. Shivali Chaudhary, Adv.
Mr. C. D. Singh, Adv.

For Respondent(s)

Mr. T. N. Singh, Adv.
Mr. V.K. Singh, Adv.
Ms. Rajshree Singh, Adv.

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

Heard learned counsel for the parties at length.

Leave granted.

The appeal is allowed in terms of the signed order.

[VINOD LAKHINA]
COURT MASTER

[ASHA SONI]
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1986 OF 2014
[Arising out of Special Leave Petition
(Criminal) No.5318 OF 2013]

STATE OF M.P.

...APPELLANT

VERSUS

KAMLESH SINGH & ORS.

...RESPONDENTS

ORDER

Heard learned counsel for the parties at length.

Leave granted.

The State of Madhya Pradesh is in appeal against the judgment and order dated 6th November, 2012 passed by the High Court of Madhya Pradesh Bench at Gwalior in Criminal Revision No.629 of 2007 by which the High Court while maintaining the conviction of the respondents - accused, *inter alia*, under Section 326 of the Indian Penal

Code, 1860 ("IPC" for short) has altered the sentence to the period undergone i.e. 43 days and also enhanced the fine amount by a sum of Rs.1,000/- (Rupees one thousand) in addition to the fine already imposed.

The aforesaid order of the High Court was passed in a revision filed by the respondents - accused challenging the order of conviction and sentence passed by the learned Trial Court as affirmed in appeal by the learned Additional Sessions Judge.

Time and again, this Court has reiterated that the sentence imposed though is in the discretion of the Court must have a reasonable connection with the gravity of the offence for which the accused has been found guilty. We need not dilate on the law in this

regard inasmuch as the same had been elaborately dealt with in a recent pronouncement of this Court to which one of us (S.A. Bobde, J.) was a party in the case of State of Madhya Pradesh versus Babulal and others [(2013) 12 SCC 308]. After exhaustive consideration of the entire gamut of the case law on the subject, the law on the issue has been summarized in Para 19, which is profitably extracted herein below:

"19. In view of the above, the law on the issue can be summarised to the effect that one of the prime objectives of criminal law is the imposition of adequate, just, proportionate punishment which is commensurate with the gravity and nature of the crime and manner in which the offence is committed. The most relevant determinative factor of sentencing is proportionality between crime and punishment keeping in mind the social interest and consciousness of the society. It is a mockery of the criminal justice system to take a lenient view showing misplaced sympathy to the accused on any consideration whatsoever including the delay in conclusion of criminal proceedings. The Punishment should not be so lenient that it shocks the conscious

of the society being abhorrent to the basic principles of sentencing. Thus, it is the solemn duty of the court to strike a proper balance while awarding sentence as awarding a lesser sentence encourages a criminal and as a result of the same society suffers."

In the present case, the conviction recorded by the learned Trial Court as affirmed in appeal is under Section 326 IPC, which contemplates punishment of imprisonment for life or with imprisonment of either description for a term which may extend to ten years.

The Trial Court in the present case had imposed a sentence of two years simple imprisonment on the respondents accused. The aforesaid sentence imposed by the learned Trial Court, from a particular perspective, can itself be considered to be lenient. Before the High Court, there was no challenge to the conviction

and the only contention on behalf of the respondents accused was with regard to the quantum of sentence. The High Court, without recording any exonerating circumstances or special facts, had altered the sentence to one of the period undergone, namely, 43 days. According to us, the aforesaid sentence is grossly disproportionate to the offence for which the respondents accused has been convicted and amounts to exercise of jurisdiction that cannot be countenanced. We are, therefore, left with no option but to interfere with the order of the High Court, which is set aside. The order of the learned trial Court as affirmed by the learned Additional Sessions Judge, Gohad is restored, meaning thereby that the respondents-accused are sentenced to undergo simple imprisonment for two years. They are directed to surrender before the learned Trial Court within a period of 30 days from the date of receipt of a copy of this order,

failing which they will be taken into custody
forthwith to serve out the remaining part of the
sentence.

The appeal shall stand allowed in the
above terms.

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

.....,J.
(S.A. BOBDE)

NEW DELHI
SEPTEMBER 09, 2014