

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 264 OF 2007

(arising out of SLP(CRL.)No.5597 of 2005)

STATE OF MADHYA PRADESH

... APPELLANT

VERSUS

KANHIYALAL

...

RESPONDENTS

O R D E R

Leave granted.

The respondent was convicted by the trial court for the offence under Section 376 IPC and was sentenced to RI for seven years and a fine of Rs.2,000/-

On appeal being preferred, the High Court has reduced the sentence of the appellant to RI for six years and enhanced the fine amount to Rs.5,000/-. The reason assigned by the High Court is that the incident has taken place in 1993 and it is a 10 years old case. The

aforesaid reasoning assigned by the High Court would be no ground to reduce the sentence from seven years to six years. Section 376 IPC itself prescribes minimum sentence of seven years. The respondent cannot be

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sentenced to undergo RI for six years which is lower than the minimum prescribed by the statute. The order of the High Court is accordingly set aside. The respondent is on bail. His bail bonds and surety stand cancelled and he is directed to surrender before the Sessions Judge, Chhattarpur, M.P. to serve out the remaining part of the sentence. The amount of fine enhanced by the High Court to Rs.5,000/- is reduced to Rs.2,000/-.

The appeal is disposed of accordingly.

.....J.

(H.K. SEMA)

.....J.

(D.K. JAIN)

NEW DELHI,

FEBRUARY 26, 2007.

ITEM NO.42

COURT NO.5

SECTION IIA

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 (Crl) No(s).5597/2005

(From the judgement and order dated 26/07/2004 in CRLA No. 1828/1998 of The HIGH COURT OF M.P AT JABALPUR)

STATE OF M.P.

Petitioner(s)

VERSUS

KANHIYALAL

Respondent(s)

(With office report)

Date: 26/02/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA
HON'BLE MR. JUSTICE D.K. JAIN

For Petitioner(s)

Mr. Siddhartha Dave, Adv.
Ms. Vibha Datta Makhija, Adv.

For Respondent(s)

Mr. B.K. Pal, Adv.

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

Leave granted.

The order of the High Court is set aside. The respondent is

on bail. His bail bonds and surety stand cancelled and he is directed to surrender before the Sessions Judge, Chhattarpur, M.P. to serve out the

remaining part of the sentence. The amount of fine enhanced by the

High Court to Rs.5,000/- is reduced to Rs.2,000/-. Compliance report

be sent to this Court within one month from today.

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

(PAWAN KUMAR)

(ANAND SINGH)

COURT MASTER

COURT MASTER

(signed order is placed on the file)