

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 1026 OF 2011

BABU

Appellant (s)

VERSUS

STATE OF U.P.

Respondent(s)

O R D E R

This appeal arises out of an order dated 21.04.2008 passed by the High Court of Judicature at Allahabad whereby Criminal Appeal No. 505 of 1984 filed by the appellant has been allowed in part and while upholding the conviction of the appellant for offences punishable under Sections 395 and 397 of the Indian Penal Code the sentence awarded to him reduced from 10 years to 7 years.

We have heard learned counsel for the parties at some length and perused the Judgment under appeal. Both the courts below have concurrently held that although the incident in question had taken place at around 1 a.m. in the intervening night of 12th April, 1981, there was sufficient source of light for the witnesses, including the injured witnesses - Ayodhya [PW-4] and Nanhka [PW-9], to identify the appellant. It is also evident from the material on record, including the statement made by the appellant under Section 313 of the Code of Criminal Procedure, 1973, that the appellant was known to the witnesses. In the circumstances, therefore and in the light of the concurrent finding recorded by the courts below as to the credibility of the witnesses produced by the prosecution and the availability of light sufficient to identify the appellant, we see no reason to interfere with the conviction of the appellant. We are, however, inclined to reduce the sentence awarded by the High Court to the appellant from 7 years to 5 years rigorous imprisonment, keeping in view the age of the appellant and the fact that the incident in question had taken place as early as in the year 1981.

We, accordingly, allow this appeal but only in part and to the extent that instead of 7 years rigorous imprisonment awarded by the High Court, the appellant shall undergo rigorous imprisonment for a period of 5 years only.

With the above modification, this appeal is allowed and disposed of.

.....J.
[T.S. THAKUR]

.....J.
[GYAN SUDHA MISRA]

New Delhi,
February 19, 2013.

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

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BABU Appellant (s)

VERSUS

STATE OF U.P. Respondent(s)
(With appln(s) for exemption from filing O.T.,bail,extension of
bail,permission to file additional documents and office report)

Date: 19/02/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Appellant(s) Mr. Apoorv Kurup,Adv.
Mr. Nirnimesh Dube,Adv.

For Respondent(s) Mr. S.N. Singh,Adv.
Mr. Ameet Singh,Adv.
Mr. Rajeev K Dubey,Adv.
Ms. Pragati Neekhra,Adv.

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

The appeal is allowed in part and disposed of in terms of the
signed order.

|(N.K. Goel)
|Court Master

|(Veena Khera)
|Court Master

(Signed order is placed on the file)