



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Appeal No. 553/1994

Smt. Kamla W/o Shri Bhanwar Singh Rao, R/o Hamirgarh,
District Bhilwara.

----Appellant

Versus

State of Rajasthan

----Respondent

For Appellant(s) : Mr. Deepesh Birla
For Respondent(s) : Mr. Mool Singh Bhati, PP

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Order

30/05/2024

Instant criminal appeal has been filed by the appellant against the judgment dated 01.11.1994 passed by learned Sessions Judge Bhilwara, in Sessions Case No.83/1993 by which the learned Judge convicted the appellant for offence under Section 366 IPC and sentenced her for two years' R.I. and a fine of Rs.100/- and in default of payment, she shall further undergo one month's S.I.

The gist of the case is that on 02.11.1992 complainant Khemraj (PW-2) submitted a report to the effect that his minor daughter Leesa was missing from last eleven days and one lady of Hameergarh took his daughter with her. On this report, Police registered a case against the accused appellant for offence under Sections 363 & 366-A of IPC and started investigation.

On completion of investigation, police filed challan against the accused-appellant. Thereafter, the trial court framed charges



against the accused-appellant for offence under Section 366 IPC, who pleaded not guilty and claimed trial.

During the course of trial, the prosecution examined as many as four witnesses in support of its case and also exhibited some documents. Thereafter, statement of the accused-appellant was recorded under section 313 Cr.P.C.

Upon conclusion of the trial, the learned trial court vide impugned judgment dated 01.11.1994 convicted and sentenced the appellant for the offences as aforesaid. Hence, this criminal appeal.

At the threshold, learned counsel for the accused-appellant submits that he does not challenge the finding of conviction but since the occurrence is related to the year 1992 and the accused appellant has so far suffered a sentence of about five days, out of total sentence of two years' R.I., therefore, it is prayed that the sentence awarded to the appellant for the aforesaid offences may be reduced to the period already undergone by her.

On the other hand, the learned Public Prosecutor opposed the submissions made by the learned counsel for the appellant. The learned PP submitted that there is neither any occasion to interfere with the sentence awarded to the accused appellant nor any compassion or sympathy is called for in the said case.

I have perused the evidence of the prosecution as well as defence and the judgment passed by the trial court regarding conviction of the accused-appellant.

Undisputedly, the occurrence relates back to year 1992 and, the appellant has so far undergone a period of about five days incarceration, out of total sentence of two years' R.I., and has also





suffered the mental agony and trauma of protracted trial. Thus, looking to the over-all circumstances and the fact that the appellant has remained behind the bars for a considerable time, it will be just and proper if the sentence awarded by the trial court for offence under Section 366 IPC is reduced to the period already undergone by the appellant.

Accordingly, the appeal is partly allowed. While maintaining the appellant's conviction for offence under Section 366 IPC, the sentence awarded to her for the said offences is hereby reduced to the period already undergone. The fine amount imposed by the trial Court is hereby waived. The appellant is on bail. She need not surrender. Her bail bonds stand discharged.

The record of the trial court be sent back forthwith.

(MANOJ KUMAR GARG),J

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