

# High Court of Sikkim

Record of proceedings

## **Crl. A. No.03 of 2022**

Bhim Bahadur Basnett

Appellant

*VERSUS*

State of Sikkim

Respondent

Date : **06-12-2023**

CORAM : **THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE  
THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE**

For Appellant Mr. Jorgay Namka, Senior Advocate (Legal Aid Counsel).

For Respondent Mr. Yadev Sharma, Additional Public Prosecutor.  
Mr. Sujan Sunwar, Assistant Public Prosecutor.

### **ORDER**

Rai, J.

Judgment pronounced in open Court.

Detailed Judgment vide separate sheets of paper.

The Appellant is acquitted of the offence under Section 376(2)(I) of the Indian Penal Code, 1860 (hereinafter, the "IPC"). He however stands convicted of the offence under Section 354A(1)(i) of the IPC.

As prayed for Learned Counsel for both the parties, the matter is posted for hearing on Sentence at 04.00 p.m.

### **Later**

Heard Learned Counsel for the parties on Sentence.

Learned Senior Counsel for the Appellant submits that in view of the conviction of the Appellant under Section 354A(1)(i) of the IPC the ends of justice would be served if the Appellant is sentenced to the period of imprisonment already undergone by him. That, consequent upon the registration of the case against him his wife has left him and there is none to take care of his family which consists of his ailing father, elderly mother and his son who is presently studying in Class X.

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That, a compassionate view be taken of his circumstances when imposing Sentence.

Learned Additional Public Prosecutor submits that the offence was perpetrated upon the victim who was a differently abled person and hence the maximum imprisonment prescribed under Section 354A(1)(i) of the IPC be imposed on him, i.e., three years with fine.

We have considered the submissions.

The records furnished by the Learned Additional Public Prosecutor today on enquiry from the Jail Authority, reveals that the Appellant has undergone two years, two months and five days of imprisonment as on date.

We are of the view that the sentence of imprisonment already undergone by the Appellant will suffice to meet the ends of justice. The Appellant is accordingly sentenced to undergo simple imprisonment of two years, two months and five days under Section 354A(1)(i) of the IPC. No fine is imposed.

Criminal Appeal stands disposed of accordingly.

Pending Applications also stand disposed of.

Registry to take necessary steps to inform the Jail Authorities.

Copy of this Judgment and Order on Sentence be made over to the Learned Trial Court along with its records and also to the Jail Authority for information.

**Judge**  
06-12-2023

**Judge**  
06-12-2023