

THE HIGH COURT OF SIKKIM : GANGTOK

(Criminal Appeal Jurisdiction)

Dated : 31st July, 2024

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

Crl.A. No.32 of 2023

Appellant : State of Sikkim

versus

Respondent : Suresh Pradhan

Appeal under Section 378(1)(b) of
the Code of Criminal Procedure, 1973

Appearance

Mr. Yadev Sharma, Additional Public Prosecutor for the State-
Appellant.

Mr. Umesh Ranpal, Advocate (Legal Aid Counsel) for the
Respondent.

Respondent present in person.

ORDER ON SENTENCE

Meenakshi Madan Rai, J.

1. Heard Learned Counsel for the parties on Sentence.
2. Learned Additional Public Prosecutor submits that in consideration of the nature of the offence the Respondent be convicted to the maximum period of imprisonment provided under Section 354A(1)(i) of the Indian Penal Code, 1860 (hereinafter, the "IPC"), and fined ₹ 5,000/-(Rupees five thousand) only. Under Section 506 of the IPC, he submits that the maximum sentence prescribed therein also be imposed on the Respondent with fine of ₹ 5,000/-(Rupees five thousand) only.
3. Learned Counsel for the Respondent submits that the Respondent has been incarcerated for a period of one year eight months and twenty five days. That, the period of incarceration already undergone by him be the only imprisonment imposed on him in view of the fact that the Respondent is a patient of

Tuberculosis. That, although he is presently not suffering from Tuberculosis there is every chance that it could relapse during the incarceration. That, in view of the fact that the penalty under Section 354A(1)(i) of the IPC prescribes that the period of rigorous imprisonment may extend to three years or fine, no further imprisonment be imposed on him under this Section and Section 506 of the IPC. Medical papers have also been made over to us during the course of hearing.

4. Having considered the facts of the case, the nature of the offence and the submissions made before us today and having perused the medical papers, we find that presently he has no signs of Tuberculosis having been appropriately medicated for a year. He has no fresh complaints of coughing or other symptoms of Tuberculosis. Accordingly, we are of the considered view that the following sentences will meet the ends of justice;

(i) For the offence under Section 354A(1)(i) of the IPC the Respondent is sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of ₹ 5,000/-(Rupees five thousand) only. In default thereof, to undergo simple imprisonment for a period of three months.

(ii) For the offence under Section 506 of the IPC he is sentenced to undergo simple imprisonment for a period of two years and to pay a fine of ₹ 5,000/-(Rupees five thousand) only. In default thereof, to undergo simple imprisonment for a period of three months.

(iii) The sentences of imprisonment (*supra*) shall run concurrently.

(iv) The period of imprisonment already undergone by the Appellant be set off against the period of imprisonment imposed on him today.

5. Appeal disposed of accordingly.

6. Copy of this Order be forwarded to the Learned Trial Court for information along with its records.

7. A copy of this Order also be made over to the Convict/Respondent through the Jail Superintendent, Central Prison, Rongyek and to the Jail Authority at the Central Prison, Rongyek, for information and appropriate steps.

(Bhaskar Raj Pradhan)
Judge
31-07-2024

(Meenakshi Madan Rai)
Judge
31-07-2024

Approved for reporting : **Yes**