

[2024] 2 S.C.R. 162 : 2024 INSC 99

Abdul Jabbar
v.
The State of Haryana & Ors.

(Criminal Appeal No. 748 of 2024)

5 February 2024

[Vikram Nath and Satish Chandra Sharma, JJ.]

Issue for Consideration

Matter pertains to conviction of the appellant for offences punishable u/s. 323/34 IPC and imposition of three months imprisonment, as also conviction u/s. 325/34 IPC and imposition of one year imprisonment with Rs 500/- fine which was modified to three months imprisonment with Rs 5000/- fine by the High Court.

Headnotes

Sentence/Sentencing – Reduction of sentence – Conviction of the appellant for offences punishable u/s. 323/34 and u/s. 325/34 – Imposition of three months imprisonment and one year imprisonment with Rs 500/- fine respectively – High Court modified the sentence of one year imprisonment with Rs 500/- fine to three months imprisonment with Rs 5000/- fine – Correctness:

Held: Considering the totality of circumstances, that the appellant has undergone almost 1/3rd of his sentence and that the underlying incident occurred in 2010, the period of almost 13 years gone in the trial, the appellants' sentence is reduced to the period already undergone, one month and three days – Impugned order modified – Penal Code, 1860 – s. 323/34 and s. 325/34. [Para 5, 6]

List of Acts

Penal Code, 1860.

List of Keywords

Reduction of sentence; Modification of sentence.

Case Arising From

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No.748 of 2024

Omdeo Baliram Musale & Ors. v. Prakash Ramchandra Mamidwar & Ors.

From the Judgment and Order dated 01.05.2023 of the High Court of Punjab & Haryana at Chandigarh in CRR No.3005 of 2013

Appearances for Parties

Deepkaran Dalal, Karan Singh Dalal, Raunaq Dalal, Advs. for the Appellant.

Raj Singh Rana, AAG, Samar Vijay Singh, Keshav Mittal, Ms. Sabarni Som, Fateh Singh, Ms. Nilakashi Choudhury, Advs. for the Respondents.

Judgment / Order of the Supreme Court

Order

1. Leave granted.
2. The decision of the High Court of Punjab & Haryana (the “**High Court**”) in Criminal Revision Petition bearing number CRR No. 3005 of 2013 is assailed before us.
3. The Appellant was prosecuted along with 3 (three) other persons for offences punishable under Section 452, Section 323 and Section 325 of the Indian Penal Code (the “**IPC**”). Thereafter, *vide* an order dated 22.04.2013, the Appellant came to be convicted by the Chief Judicial Magistrate, Nuh, Haryana (the “**Trial Court**”) in relation to offences punishable under (i) Section 323 read with Section 34; and (ii) Section 325 read with Section 34 of the IPC. Accordingly, the Trial Court sentenced the Appellant as under:

Offence(s)	Period of Sentence	Fine Imposed
323/34 IPC	03 Months	-
325/34 IPC	01 Year	INR 500

(the “**Trial Court Order**”).

4. The Trial Court Order was assailed before the Additional Session Judge, Nuh unsuccessfully, and thereafter challenged before the High Court. *Vide* an order dated 01.05.2023, the High Court partly allowed the Criminal Revision Petition i.e., upheld the conviction recorded by the Trial Court, however, on account of substantial delay i.e., extending to a period of almost 13 (thirteen) years in the underlying trial, modified the sentence imposed by Trial Court on the Appellant, as under:

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Offence(s)	Period of Sentence	Fine Imposed
323/34 IPC	03 Months	-
325/34 IPC	03 Months	INR 5000

(the “**Impugned Order**”).

5. Mr. Deepkaran Dayal, learned counsel appearing on behalf of the Appellant has drawn the attention of this Court to the fact that the Appellant has undergone almost 1/3rd of his sentence i.e., a period extending to 1 (one) month; and 3 (three) days. Furthermore, he has submitted that the underlying offence pertains to 2010 and that the Appellant was made to suffer the agony of a protracted trial spanning over 13 (thirteen) years. Accordingly, it was urged before us that the sentence awarded to the Appellant be reduced to the period already undergone.
6. Taking into consideration the totality of circumstances, coupled with the fact that underlying incident occurred in 2010, the appeal is allowed in part and the Impugned Order is modified to the extent that the Appellants’ sentence is reduced to the period already undergone i.e., 1 (one) month; and 3 (three) days.
7. In view of the aforesaid, I.A. No. 126067 of 2023 i.e., an application seeking declaration of the Appellant as a juvenile at the time of the underlying offence, does not require any consideration by this Court.
8. Pending application(s), if any, shall stand disposed of. No order as to costs.

Headnotes prepared by: Nidhi Jain

*Result of the case:
Appeal partly allowed.*