

IN THE HIGH COURT OF MADHYA PRADESH

AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE ACHAL KUMAR PALIWAL

ON THE 12th OF SEPTEMBER, 2024

CRIMINAL APPEAL No. 11996 of 2023

RADHESHYAM THAKUR

Versus

THE STATE OF MADHYA PRADESH AND ANOTHER

Appearance:

Shri Pradeep Kumar Naveriya –Advocate for the appellant.

Ms. Geeta Yadav – Government Advocate for the respondent/State.

WITH

CRIMINAL APPEAL No. 12645 of 2023

KRISHNA KUMAR KURMI

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Arun Kumar Vishwakarma –Advocate for the appellant.

Ms. Geeta Yadav- Government Advocate for the respondent/State.

JUDGMENT

With the consent of parties, the matter is finally heard at motion stage.

2. This judgment shall govern disposal of Cr.A. No.11996/2023 (**Radheshyam Thakur Vs. The State of Madhya Pradesh and another**) and Cr.A. No. 12645/2023 (**Krishna Kumar Kurmi Vs. State of MP**) filed under Section 374(2) of the Code of Criminal Procedure, 1973 (In short “ Cr.P.C.) against the judgment dated 11.09.2023 passed by 4th Additional Sessions Judge and Special Judge POCSO, Narsinghpur in SC No. 47/2022, whereby appellants have convicted and sentenced as under:-

Appellant-Radheshyam Thakur-

CONVICTION		SENTENCE		
Section	Act	Imprisonment	Fine	Imprisonment In Lieu of Fine
341	IPC	1 month RI	Nil	Nil
354A	IPC	6 months RI	Rs. 1,000/-	1 month RI
354D	IPC	Nil	Nil	Nil
509	IPC	1 year RI	Rs. 1,000/-	1 month RI
11(iv)/12	POCSO Act	2 years RI	Rs. 1,000/-	1 month RI

Appellant-Krishna Kumar Kurmi-

CONVICTION		SENTENCE		
Section	Act	Imprisonment	Fine	Imprisonment In Lieu of Fine
341	IPC	1 month RI	Nil	1 month RI
354A	IPC	6 months RI	Rs. 1,000/-	1 month RI

509	IPC	1 year RI	Rs. 1,000/-	1 month RI
11(iv)/12	POCSO Act	2 years RI	Rs. 1,000/-	1 month RI

3. Learned counsels for both the appellants in both the appeals, at the outset, submits that they are not challenging conviction part of the judgment. They are only challenging sentence part of the judgment. Learned counsels for the appellants submits that appellants have completed almost 7 months of sentence out of 2 years sentence. It is urged that looking to the facts and circumstances of the case, including the offence committed by the appellants, sentence be reduced and appellants be sentenced with period already undergone by them. It is also urged that there are no criminal antecedents of appellants. They are first offender. Appellant Krishna Kumar Kurmi is aged 24 years, whereas appellant Radheshyma Thakur is aged 20 years. Hence, appeals filed by the appellants be partly allowed and they be sentenced with already undergone by them.

4. Learned counsel for the respondent/State has submitted that prosecution has proved its case by leading cogent evidence & has proved guilty of the appellants beyond reasonable doubt and there are no grounds to interfere with the same. The trial Court has rightly convicted and sentenced the appellants, as above, hence, appeal is liable to be dismissed.

5. I have heard learned counsel for the parties and have examined record of the case.

Analysis and findings:-

6. So far as conviction of appellants is concerned, this court has examined and assessed evidence, both oral as well as documentary, available on record. Perusal of deposition of prosecution witnesses, especially victim PW-1, PW-4, reveals that from evidence on record, it is clearly established that PW-1 and PW-4 were minor on the date of incident and appellants made sexually coloured remarks and followed etc. PW- and PW-4. Thus, in the instant case, ingredients constituting offence under Sections 509, 354A and 341 of IPC as well as Section 11(iv)/12 of POCSO clearly stand established. Thus, trial court has not committed any illegality in convicting appellants for aforesaid offences.

7. So far as sentence is concerned learned trial court has sentenced appellants under Sections 341 of IPC with R.I. 1 month, Section 354-A of IPC with R.I. 6 months, Section 509 of IPC with R.I. 1 year and Section 11(iv)/12 of POCSO with R.I. 2 years and with fine. Record of the case reveals that there are no criminal antecedents of appellants. Hence, in view of overall facts and circumstances of the case and also having regard to facts constituting the offence, in this Court's opinion, ends of justice would be served if sentence awarded under Section 11(iv)/12 of POCSO Act is reduced and fine is enhanced.

8. Resultantly, appeals filed by the appellants are partly allowed and sentence imposed under Section 11(iv)/12 of POCSO Act is reduced to R.I. 1 year and 6 months but fine is enhanced from Rs. 1,000/- to Rs. 10,000/-. Hence each appellant is sentenced under Section 11(iv)/12 of POCSO Act with R.I. 1 year and 6 months

and fine of Rs. 10,000/- and in default 6 months R.I. Sentence imposed by the trial Court with respect to remaining offences shall remain intact.

9. Copy of judgment be sent forthwith to concerned jail for information and necessary action.

10. Cr.A. No. 11996/2023 and Cr.A. No. 12645/2023 are partly allowed to the extent as indicated above and are disposed off accordingly.

(ACHAL KUMAR PALIWAL)
JUDGE

L.R.