

**Court No. - 13**

**Case :-** CRIMINAL APPEAL No. - 337 of 2001

**Appellant :-** Dalganjan And Ors.2

**Respondent :-** State of U.P.

**Counsel for Appellant :-** Ashok Kumar Balediha, Aakash Srivastava, Alok Kumar Srivastava, Apoorv Srivastava

**Counsel for Respondent :-** Govt. Advocate

**Hon'ble Karunesh Singh Pawar, J.**

1. The instant criminal appeal has been preferred against the judgment and order dated 03.05.2001 passed by learned IIIrd Additional Sessions Judge, Hardoi, passed in Sessions Trial No. 480 of 1994, relating to Case Crime No.37 of 1994, under Section 366 I.P.C., Police Station Tadiyawan, District Hardoi, whereby the appellants- Dalganjan, Bahadur and Neelkanth has been convicted under Section 366 I.P.C. and sentence to undergo rigorous imprisonment for a period of five years.

2. Heard learned counsel for the appellants and learned A.G.A.

3. At the very outset, learned counsel for the appellants submits that he wants to press the instant appeal only for the appellant no. 1 i.e. Dalganjan. Learned counsel for the appellants has stated the appellant no.2 Bahadur died and appeal with regard to appellant no.2 is abated vide order dated 2.1.2023 passed by this Court. So far as appellant no.3 Neelkanth is concerned, the appeal has been partly allowed vide order dated 16.4.2019 by this Court.

4. Learned Counsel has further submitted that he has to say nothing on merits of the case and he simply prays that the custodial punishment awarded to the appellant no. 1 i.e. Dalganjan be reduced to the period already undergone in jail and some fine may be imposed. He points out that the incident had taken place in the year of 1994.

5. So far as, sentence is concerned it has been held that:-

(i) In *Uthem Rajanna vs. State of A. P.* reported in 2005 (11) Supreme Court Cases 531; accused was convicted and sentenced for six months under Section 304-A IPC along with fine, three months under Section 338 IPC. In appeal Hon'ble the Apex Court has reduced the sentence period already undergone.

(ii) In *Neelam Bahal and another vs. State of Uttarakhand* reported in (2010) 2 Supreme Court Cases 229; accused was convicted and sentenced under Section 307 IPC and sentenced him to undergo seven years' rigorous imprisonment. Hon'ble the Apex Court has convicted accused under Section 326 IPC and reduced the sentence to period already undergone i.e. almost one year on the ground that the incident happened in the year 1987 when the accused was of young age of 25 years.

**6.** After perusing the judgment impugned and considering the above mentioned judgments rendered by the Hon'ble Apex Court, I am of the view that the ends of justice will be met if the custodial punishment awarded to the appellant no. 1 i.e. Dalganjan is reduced to the period already undergone by him in jail and a reasonable amount of fine is imposed upon him.

**7.** In the circumstances mentioned above, modifying the period of custodial sentence, it is directed that the appellant no. 1 i.e. Dalganjan is sentenced to undergo imprisonment already undergone by him in jail. Besides, he is sentenced to pay fine of Rs.20,000/- under Section 366 of the Indian Penal Code. The appellant is directed to deposit the fine within a period of two months from today in the court concerned. In default of payment of fine stipulated under this order, appellant will undergo one month's rigorous imprisonment.

**8.** Thus, the appeal, so far as it relates to appellant no. 1 i.e. Dalganjan, is partly allowed with modification on the point of sentence only as mentioned above. Conviction is maintained.

**9.** Let a copy of the judgment be sent to the learned Sessions

Judge concerned for its onward transmission to the court  
concerned for information and further action in the matter.

**Order Date :- 3.11.2023**

Madhu