

SUPREME COURT OF INDIA

Hanuman

Vs.

State of Haryana

Crl.A.No.581 of 1976

(Y. V. Chandrachud, P. K. Goswami and P. N. Shinghal, JJ.)

17.03.1997

JUDGEMENT

CHANDRACHUD, J.:-

1. The appellant was convicted by the learned Judicial Magistrate, First Class Gurgaon, under Ss. 354 and 506, IPC and was sentenced to suffer rigorous imprisonment for one year under the former charge and to a concurrent sentence of six months under the latter. In appeal, the learned Sessions Judge, Gurgaon, set aside the conviction under S. 506, but upheld the one under S. 354. He, however reduced the sentence from one year's rigorous imprisonment to one month's rigorous imprisonment and imposed a fine of Rs. 200/- and in default further rigorous imprisonment for one month. The appellant filed a revision application in the High Court of Punjab and Haryana, which was dismissed summarily by the High Court on May 18, 1976. Being aggrieved thereby, the appellant has filed this appeal by special leave.

2. Mr. Marwah, who appears on behalf of the appellant, has criticized the evidence led by the prosecution on various grounds. The complainant, Nirmala, stated in her evidence that she was on

way to her field for collecting jowar, but it is said that there was no jowar crop on the land at the relevant time. Learned counsel further argues that Nirmala had no injury on her person, that Net Ram, who is alleged to have seen the occurrence, was not examined in the case, that even the investigating officer was not examined as a witness and that the evidence of the complainant is not corroborated as indeed it ought to have been corroborated in view of the fact that she is a prosecutrix in regard to an offence under S. 354. We see no substance in any of these submissions, but we are inclined to the view that the complainant has somewhat exaggerated the story, the benefit whereof must go to the appellant. It would therefore be appropriate to alter the appellant's conviction from S. 354 to S. 352 of the Penal Code. We order accordingly and set aside the substantive sentence imposed on the appellant. The sentence of fine and the sentence in default will, however, remain. The fine, if recovered, shall be paid to the complainant Nirmala.

Orders accordingly.