

State of Madhya Pradesh

v.

Phool Chand

(Supreme Court Of India)

Criminal Appeal No. 293 Of 2005 | 14-02-2005

1. Heard learned Counsel for the parties.

2. Leave granted.

3. The Trial Court convicted the sole respondent under Sections 393/397 of the Indian Penal Code (for short 'the IPC') and sentenced to undergo rigorous imprisonment for a period of seven years, which was the minimum sentence that could have been awarded under Section 397, IPC. Against the said order, when an appeal was taken to the High Court, the conviction has been maintained, but sentence of imprisonment has been reduced to the period already undergone as the respondent had remained in custody for a period of four months twenty-four days. Hence, this appeal by special leave.

4. It appears that the Trial Court has awarded the seven years imprisonment, which is the minimum sentence which could have been awarded for commission of offence under that section. In view of this, the High Court was not justified in reducing the sentence to the period already undergone. We really fail to understand how the High Court has reduced the period of sentence which is less than the minimum prescribed under the statute, which shows either complete no-application of mind or passing the order for extraneous consideration.

5. For the foregoing reasons, the appeal is allowed, impugned order reducing the sentence of imprisonment to the period already undergone rendered by the High Court is set aside and the period of seven years rigorous imprisonment awarded by the Trial Court is restored. The respondent is directed to be taken into custody forthwith to serve out the remaining period of sentence, for which

compliance report must be sent to this Court within one month from the date of receipt of copy of this order by the Trial Court.