

SUPREME COURT OF INDIA

Kaliben Rabari

Vs.

State of Gujarat

Crl.A.No.571 of 2009

(Dr. Arijit Pasayat and Asok Kumar Ganguly JJ.)

27.03.2009

JUDGMENT

DR. ARIJIT PASAYAT, J.

Leave granted.

1. The only question of importance which is raised by the learned counsel for the appellant is that the High Court while reducing the sentence from 10 years to two and half years in respect of offence punishable under Sec. 304 Part I to 304 Part II of the Indian Penal Code, 1860 (in short the IPC) also reduced compensation from Rs.5 lakhs to Rs. 3 lakhs. Learned counsel for the appellant submitted that there was no basis for such reduction after the custodial period was substantially reduced. The High Court in fact refused to extend the benefits of the *Probation of Offenders Act 1958* (in short the Probation Act) to the accused persons. By applying the parameters of Sec.357 of the Code of *Criminal Procedure, 1973*, (in short the `Code'), the trial Court had fixed the quantum of compensation of Rs.5 lakhs. Learned counsel for the accused respondent supported the judgment of the High Court. We find that in a case of this nature where the High Court has altered conviction from Section 304 Part I to 304 Part II IPC and has considerably reduced the period of custodial sentence, there was no basis for reducing the compensation as awarded, i.e. Rs. 5 lakhs to Rs. 3 lakhs. No reason has been indicated to justify the reduction. Accordingly, we enhance the quantum of compensation to Rs. 5 lakhs. The balance of amount, if any, required to be deposited shall be so done within a period of four weeks from today. The appeal is disposed of.