

SUPREME COURT OF INDIA

Pareshbhai Annabhai Sonvane

Vs.

State of Gujarat & Ors.

Crl.A.No.209 of 2016

(Dipak Misra and Shiva Kirti Singh, JJ.)

18.03.2016

JUDGMENT

Shiva Kirti Singh, J.

S.L.P.(Crl.)No.1671 of 2016

1. The sole appellant was accused no.2 before the Sessions Judge, Surat in Sessions Case No.278/2008 along with three other co-accused for offences under Sections 395, 397 and 504 of the IPC. The trial court found sufficient evidence against accused nos.1 to 3 and accordingly convicted them for the offence under Section 395 of the IPC while holding that prosecution could not establish the other charges. Considering that the value of the alleged loot including cash and mobile was only Rs.16,550/- and the young age of the accused, the trial court inflicted rigorous imprisonment of only one year along with fine of Rs.100/-. In the trial court judgment dated 24.08.2011 the age of the appellant has been recorded as 24 years and as such on the date of the alleged occurrence in July 2008 he would be about 21-22 years of age.

2. The State of Gujarat opted to prefer Criminal Appeal No.1463 of 2011 under Section 377 of the Code of Criminal Procedure to seek enhancement of sentence imposed on the three convicts including the appellant. By the impugned judgment and order under appeal dated 21.09.2015 the High Court came to the view that the trial court had rightly convicted the accused but had erred in imposing a sentence of imprisonment which was clearly on the lower side. The High Court allowed the appeal to the extent of enhancing the sentence to five years of rigorous imprisonment along with the fine imposed by the trial court.

3. After hearing the arguments of both the sides we are not persuaded to interfere with the conviction of the appellant under Section 395 IPC and hence his conviction is affirmed. However, for the same very reasons as recorded by the trial court and finding that nothing was recovered from him, we are persuaded to reduce the sentence of imprisonment. We have been informed on the basis of facts mentioned in the Surrender Certificate dated 19.02.2016 available on record that the appellant has now remained in jail for three years and two

months on account of continuous incarceration since his surrender on 28.07.2008. The certificate further discloses that fine of Rs.100/- has also been paid. In the facts of the case and considering the period already undergone by the appellant, we reduce the period of sentence imposed upon the appellant to the period already undergone, i.e., three years and two months of actual imprisonment. In case he is not required to be kept in prison in connection with any other matter, he should be released in the present matter forthwith. The appeal is allowed to the aforesaid extent only.