

IN THE HIGH COURT OF SIKKIM

Criminal Appeal No.2 of 2000.

Ram Bahadur Chettri
S/o Hari Bahadur Chettri
Salep Tanki, Upper Burtuk,
Gangtok.

... Appellant.

Versus

State of Sikkim

... Respondent.

Date of Decision: 28-2-2001.

Coram:

The Hon'ble Mr. Justice Ripusudan Dayal, Chief Justice.

The Hon'ble Mr. Justice Anup Deb, Judge.

Present: Mr. N. Rai, Advocate for the appellant.
Mr. S. P. Wangdi, Public Prosecutor with Mr.
Karma Thinlay, Asstt. Govt. Advocate for the State.

JUDGMENT

Dayal, CJ.

This appeal is directed against the judgment and order dated 27-1-2000 of the learned Sessions Judge(Special Division), Gangtok in Criminal Case No.7 of 1998 convicting the appellant under Section 376 Indian Penal Code and sentencing him to imprisonment for 10 years and also fine of Rs.2,000/- and in default to undergo further imprisonment of six months.


2. We heard the arguments to some extent on the point of conviction. After hearing arguments and perusing the record, we are satisfied that there is evidence to uphold the order of conviction under Section 376 IPC. Therefore, the learned counsel presses only for reduction of sentence. The appellant has been in jail for more than three years. There is absolutely no evidence on record to show that

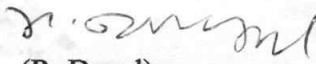
n. Wangdi

sexual intercourse was done forcibly. The victim is related to the appellant being the sister-in-law of the appellant, being the sister of the appellant's wife. It appears that she used to reside at Buriakhop near Soreng along with her father where the appellant had also come. Sometime in April, 1990, both left the village. It appears that the victim left along with the appellant in order to get employment. The main reason for upholding the conviction of the appellant is that she was 1 or 2 months below the age of 16 years.

3. In our view there are adequate reasons for awarding sentence of imprisonment for less than 7 years. The imprisonment already undergone by him would meet the ends of justice. We therefore reduce the sentence under Section 376 IPC to that already undergone by the appellant. The appellant be set free forthwith if not required in any other case.

The appeal stands disposed of.


(Anup Deb)
Judge
28.02.2001


(R. Dayal)
Chief Justice.
28.02.2001