

CASE NO.:
Appeal (crl.) 1479 of 2001.

PETITIONER:
GOPAL CHANDRAS @ GOPAL CHANDRA & ANR.

Vs.

RESPONDENT:
STATE OF BIHAR

DATE OF JUDGMENT: 02/02/2001

BENCH:
Umesh C. Banerjee & Doraiswamy Raju.

JUDGMENT:

D E R
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Delay condoned.

Leave granted.

In this matter, notice was also issued for enhancement of the sentence, having due regard to the gravity of the offence. The contextual facts depict that the appellants were charged pursuant to the complaint, filed by one Amita Bhatt, a resident of a refugee colony in Champaran District, that she was raped by the appellants in the night when her husband was away. Learned Sessions Judge while dealing with the matter on the basis of the overwhelming materials available on record, convicted the appellants herein under Section 376 I.P.C. and sentenced them to rigorous imprisonment for 5 years. On appeal, however, the learned Single Judge of the High Court, though found no merit in the appeal, but reduced the sentence to three years imprisonment on the ground that the occurrence is of the year 1983 and the same is sufficient to meet the ends of justice. It was in this context that this court was pleased to entertain the SLP and to issue notice therein, subject to the proposal for enhancement of punishment as noticed above.

Upon hearing the learned counsel on either side, we also do record our concurrence of the finding of the High Court that there is no merit in the appeal. As such, the appeal is dismissed.

As regards the sentence, we regret to observe that despite having found no merits in the appeal the High Court should have interfere with the quantum by reducing the sentence to three years merely for the reason of lapse of time due to pendency of proceedings at various stages particularly, High Court awaiting disposal of the appeal. In the facts of the matter under consideration when the offence charged is a serious one against an helpless woman by committing a social evil, the question of showing any further leniency to the accused does not and cannot arise. The reduction of sentence thus made by the High Court of the

sentence imposed by the Trial Court which itself is found to be on the lenient side, stands set aside and quashed and the sentence imposed by the trial court stands restored. The Authorities will take steps to ensure that the accused undergoes the balance of sentence.

JUDIS