

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CRIMINAL) NO.1759 OF 2015

Ratheesh

....Petitioner

versus

State of Kerala & Anr.

...Respondents

**J U D G M E N T**

**Madan B. Lokur, J.**

1. This petition is directed against the judgment and sentence dated 6<sup>th</sup> September, 2013 passed by the High Court of Kerala in CrI. Rev. Pet. No. 823 of 2012.

2. It is not necessary to go into the detailed facts of the case since we are considering the matter as the fourth Court in the hierarchy and are not inclined to encourage a detailed scrutiny of the facts and evidence at this stage.

3. Broadly, the allegation against the appellant is that he had raped PW1 his cousin on 20<sup>th</sup> October, 2002 and thereafter had promised to marry her. The petitioner and PW1 are said to have had sexual intercourse on three subsequent occasions as well, on the promise to marry given by the petitioner. PW1 was later on found to be pregnant and has since delivered a child. As far as the petitioner is concerned, he refused to

marry PW1 and that led to her lodging a complaint against him for offences punishable under Section 376 and Section 417 of the Indian Penal Code.

4. The trial judge, that is, the Additional Assistant Sessions Judge, Kottayam considered the evidence on record and by his judgment and order dated 11<sup>th</sup> March, 2005 accepted the version of PW1 and convicted the petitioner of the offences punishable under Section 376 and Section 417 of the IPC. On the question of sentence, the Trial Court sentenced him to seven years rigorous imprisonment and to pay a fine of Rs. 35,000/- and in default thereof to undergo further simple imprisonment for a period of one year. It was directed that if the fine amount is realized then Rs. 30,000/- would be given to PW1 as compensation under Section 357 of the Cr. P.C.

5. Feeling aggrieved, the petitioner preferred an appeal before the Additional Sessions Judge (Adhoc-II). The first appellate court found no reason to interfere with the judgment and sentence delivered by the Trial Court and accordingly dismissed the appeal.

6. Feeling aggrieved, the petitioner preferred a Revision Petition before the High Court which was dismissed by the impugned judgment and order dated 6<sup>th</sup> September, 2013. The High Court, despite its limited revisional jurisdiction, went into the facts of the case and accepted the version of PW1 and affirmed the conviction of the petitioner. However, with regard to the sentence of imprisonment, the High Court reduced the period from seven years to two years rigorous imprisonment. With regard to the fine, it was directed that the entire fine of Rs. 35,000/- if recovered shall be paid to PW1 and in default thereof to undergo further simple imprisonment

for a period of six months.

7. Feeling aggrieved, the petitioner is now before us under Article 136 of the Constitution.

8. As mentioned above, we are not inclined to look into the evidence despite the persuasion of learned counsel for the petitioner. Three Courts have already gone into the evidence on record and had arrived at a conclusion which we do not find to be perverse. We may have a difference of opinion on the facts of the case but a mere difference of opinion is not sufficient to result in interference with views expressed by three courts particularly after each one of them has discussed the evidence in detail.

9. Under these circumstances, we decline to exercise our discretion and do not interfere with the judgment and order passed by the High Court including the punishment awarded to the petitioner.

10. The petition is dismissed.

.....J  
(Madan B. Lokur)

JUDGMENT

.....J  
(S.A. Bobde)

**New Delhi;  
October 15, 2015**