



IPC S. 361 - Sentence - Whether the punishment awarded is just, and ought there be leniency given the unique circumstances?

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[sentence](#) - Whether the punishment awarded is just, and ought there be leniency given the unique circumstances? - Reduced - Factors taken into consideration - IPC , Section 361 - IPC , Section 366.

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First, it is apparent that no force had been used in the act of kidnapping. There was no preplanning, use of any weapon or any vulgar motive. Second, although not a determinative factor, the young age of the accused at the time of the incident cannot be overlooked. Third, owing to a protracted trial and delays at different levels, more than twenty-two years have passed since the incident. Both the victim and the appellant are now in their forties; are productive members of society and have settled down in life with their respective spouses and families. It, therefore, might not further the ends of justice to relegate the appellant back to jail at this stage. Fourth, the crime was one of passion. No other charges, antecedents, or crimes either before 1998 or since then, have been brought to our notice. The appellant has been rehabilitated and is now leading a normal life. The possibility of recidivism is therefore extremely low. Fifth, there is no grotesque misuse of power, wealth, status or age which needs to be guarded against. Both the prosecutrix and the appellant belonged to a similar social class and lived in geographical and cultural vicinity to each other. Far from there being an imbalance of power; if not for the age of the prosecutrix, the two could have been happily married and cohabiting today. Indeed, the present instance is an offence: mala prohibita, and not mala in se. Accordingly, a more equitable sentence ought to be awarded. Sentence of five years' rigorous imprisonment awarded - Reduced to the period of incarceration already undergone.

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