

2023 S CeJ 0234 = 2023 PLRonline  
437602 (SC) = (2023-2)210 PLR 582 (SC)

SUPREME COURT OF INDIA

*Present: Justice Abhay S. Oka and Justice  
Sanjay Karol.*

RAZIA KHAN - Appellant  
Versus

The STATE OF M.P. – Respondent.  
Criminal Appeal No.2259 of 2023(@  
Special Leave Petition (Crl.) No.5823 of  
2023).

(i) Criminal Procedure Code, 1973, Section 360 - Probation – Appellant indulged in the act of entering the chamber of Commissioner in the Directorate who was discharging his official duty as a public servant and used abusive language - Considering the seriousness of the offence punishable under Section 333 of the IPC and since the punishment prescribed is both of imprisonment of either description and a fine, obviously, the appellant cannot be let off only on a fine - However, for the circumstances given, we are of the view that the appellant deserves to be shown leniency when it comes to the substantive sentence. Held, we propose to bring down the sentence of the appellant for the offence punishable under Section 333 to simple imprisonment for one month with a fine of Rs. 30,000/- for the said offence. [Para 8]

(ii) Criminal Procedure Code, 1973, Section 360 - Probation – Only because an accused is on bail for a long time, it is no ground by itself to show leniency - It is only one of the several factors to be considered. [Para 8]

(iii) Criminal Procedure Code, 1973, Section 360 - Indian Penal Code, 1860, Sections 333, 353, 360 and 451 - The appellant/accused engaged in an objectionable act by entering the chamber of the Commissioner in the Directorate while the Commissioner was performing his official duties as a public servant - Appellant also verbally abused the

Commissioner using offensive language - The court held that the appellant's actions constituted offenses under Section 333 of the Indian Penal Code (IPC) for voluntarily causing grievous hurt to deter a public servant from discharging his duty, Section 353 of the IPC for using criminal force to deter a public servant from discharging his duty, and Section 451 of the IPC for committing house trespass in order to commit an offense punishable with imprisonment - Conviction upheld – Under Section 333 simple imprisonment for one month with a fine of Rs. 30,000/- imposed, Section 353 fine of Rs. 30,000/- imposed, under Section 451 fine of Rs. 25,000/- imposed.

Section 333: Imprisonment of either description for a term which may extend to ten years with a fine.

Section 353: Imprisonment of either description for a term which may extend to two years, or with a fine, or with both.

Section 451: Imprisonment of either description for a term which may extend to two years and a fine.

*For the Appellant :- Sudarshan Rajan, Advocate. For the Respondents :- Mrinal Gopal Elker, Advocate.*

JUDGMENT

Abhay S. Oka, J. -

**FACTUAL ASPECTS**

The appellant has been convicted for the offences punishable under Sections 333, 353 and 451 of the Indian Penal Code, 1860 (for short, 'IPC'). The Sessions Court convicted the appellant for all three offences. For the offences punishable under Sections 451 and 353 of the IPC, the appellant was sentenced to undergo rigorous imprisonment for one year each and for the offence punishable under Section 333 of IPC, he was sentenced to undergo rigorous imprisonment for two years with a fine of Rs. 2,000/- . By the impugned judgment, the High Court while upholding the conviction, brought down the substantive sentence to rigorous imprisonment for six months for each of

the three offences. On 9th May 2023, this Court issued a notice confined only to the sentencing part.

#### **SUBMISSIONS**

2. The learned counsel appearing for the appellant firstly submitted that considering the facts of the case, the appellant deserves to be granted the benefit of probation under section 360 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') and/or the Probation of the Offenders Act, 1958. Secondly, he submitted that the incident complained occurred on 1st December 1992 and during the period of the last thirty and a half years, during the pendency of the trial and appeal, the appellant was all throughout on bail. The learned counsel submitted that the appellant is a woman whose present age is 62 years. He submitted that considering the long passage of time of thirty years and more from the date of the offence and other relevant factors, even if the benefit of probation cannot be given to the appellant, she deserves to be let off only on payment of a fine.

3. Mr. D.S. Parmar, the learned Additional Advocate General appearing for the respondent - State of M.P. submitted that the appellant has misbehaved with PW-1 who is a public servant and obstructed her and PW-6 from discharging their official duties and therefore, in fact, stringent punishment was called for. Moreover, the High Court has already shown leniency by reducing the sentence.

#### **OUR VIEW**

4. It is necessary for us to note the nature of the offence. The appellant claims to be a social worker belonging to a political party. A written complaint was made by Ms Sajni Batra (PW-1) on 1st December 1992 to the Police. She was working as a Deputy Director in the Directorate of Women and Child Development at Bhopal. At that time, Shri P. Raghvan (PW-6) was posted as the Commissioner in the Directorate. On 1st December 1992, PW-6 was conducting an official meeting in his chamber in the presence of PW-1 and other officers. The

case of the prosecution is that when the meeting was in progress, suddenly, the appellant barged into the chamber of PW-6. She threw a file at PW-6 and started shouting in abusive language. When PW-1 tried to stop her, the appellant pushed her. As a result, the PW-1 sustained a fracture in the little right finger. The appellant claimed that she was the sister of a Member of Parliament and threatened to remove PW-6 from his post. The Sessions Court and the High Court believed the testimonies of the eye-witnesses and especially of PW-1 and PW-6. Considering the nature of the offence, we are of the considered view that the benefit of probation can be extended to the appellant.

5. As noted in our order dated 9th May 2023, no case was made out to interfere with the order of conviction and the notice was confined to sentence. Therefore, the question is about the quantum of sentence. Looking at the findings recorded by the Sessions Court and the High Court, the following are the relevant factors for deciding the question of showing leniency to the appellant:

a. For espousing the cause of the labourers, the appellant visited the office of the Directorate;

b. Evidence of PW-1 and PW-2 Hemraj (a peon working in the Office of the Commissioner) indicated that the appellant had sent a slip of her name to PW-6 which was kept on the table of PW-6 as she wanted to meet him. After waiting for a considerable time, as she was not allowed to meet PW-6, she forced her entry to his cabin and complained that she was made to wait;

c. PW-1 admitted that the appellant was not annoyed with her. She stated that the appellant did not indulge in any scuffle with her. When she tried to stop the appellant, she was pushed by the appellant and that is how she

received injury to her little right finger;

d. The incident is more than thirty years old;

e. During the last thirty and a half years, when the trial and appeal were pending, the appellant was all throughout on bail. Even in this appeal, an exemption has been granted to her from the requirement of surrendering;

f. During this long period of more than 30 long years, there was no allegation of any objectionable activity by her; and

g. The appellant is a female whose present age is 62 years.

6. At the same time, we cannot ignore that the appellant indulged in the objectionable act of entering the chamber of PW-6 who was discharging his official duty as a public servant. At that time, PW-6 was holding a meeting with the officials including PW-1. The appellant abused PW-6 by using very bad language. At that time, PW-1 tried to stop the appellant but the appellant pushed PW-1. As a result, PW-1 suffered a fracture in her little right finger. That is how both Courts have held the appellant guilty of the offences punishable under Sections 333, 353 and 451 of the IPC.

7. The offence punishable under Section 333 of voluntarily causing grievous hurt to deter a public servant from discharging his duty attracts punishment by imprisonment of either description for a term which may extend to ten years with a fine. The offence punishable under Section 353 of using criminal force to deter a public servant from discharging his duty attracts punishment of imprisonment of either description for a term which may extend to two years, or with a fine, or with both. Lastly, the offence punishable under Section 451 of committing house trespass in order to commit any offence punishable with imprisonment, attracts imprisonment of either description for a term which may extend to two years and a fine.

8. Considering the seriousness of the offence punishable under Section 333 of the IPC and since the punishment prescribed is both of imprisonment of either description and a fine, obviously, the appellant cannot be let off only on a fine. However, considering the circumstances set out in paragraph 5 above, we are of the view that the appellant deserves to be shown leniency when it comes to the substantive sentence. The distinct factors set out in paragraph no.5, taken individually, do not constitute a ground by itself to show leniency. For example, only because an accused is on bail for a long time, it is no ground by itself to show leniency. It is only one of the several factors to be considered. But we have considered these factors cumulatively. Hence, we propose to bring down the sentence of the appellant for the offence punishable under Section 333 to simple imprisonment for one month. We propose to impose a fine of Rs. 30,000/- for the said offence.

9. The offence punishable under Section 353 provides for punishment by imprisonment of either description for a term which may extend to two years, or with a fine, or with both. We, therefore, propose to bring down her sentence to a fine of Rs. 20,000/-. As regards the offence under Section 451 of the IPC, if the offence is not committed with the intention of committing theft, it is punishable by imprisonment of either description for a period of two years and to pay a fine. Looking at the factors set out in paragraph 5, we propose to sentence the appellant to undergo simple imprisonment for one month and to pay a fine of Rs. 25,000/-.

10. Accordingly, the appeal is partly allowed. The order of conviction of the appellant by both the Courts for offences punishable under Sections 333, 353 and 451 of the IPC is confirmed. For the offence punishable under Section 333 of the IPC, the appellant shall undergo simple imprisonment for one month and pay a fine of Rs. 30,000/- within one month from today. For the offence punishable under

Section 451 of the IPC, the appellant shall undergo simple imprisonment for one month and to pay a fine of Rs. 25,000/- within a period of one month from today. We bring down the sentence for the offence punishable under Section 353 of the IPC by directing the appellant to pay a fine of Rs. 20,000/- within a period of one month from today. The fine amounts as aforesaid shall be deposited in the Trial Court. The fine amounts will be inclusive of the fine of Rs. 2,000/- directed to be paid by the trial Court. The substantive sentences shall run concurrently.

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11. In default of payment of the fine imposed in each case, the appellant shall undergo simple imprisonment for 15 days.

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12. Out of the fine amount, a sum of Rs. 25,000/- shall be paid over to the injured witness PW-1 Ms Sajni Batra by way of compensation. The rest of the fine amount shall go to the State.

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13. We grant time of one month to the appellant to surrender before the Trial Court for undergoing the punishment. The appeal is partly allowed on above terms.

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