

07.01.2022

Proceedings conducted through video conferencing on Cisco Webex.

Present: Ld APP for the State through VC.
Sh. Lalit Bhati alongwith Mr. Abhay Pandey, Ld. counsels for the convict through VC.
Convict also joined through VC from the Court.
Victim Impact Report received from NDDLISA.

An application under section 360 Cr.P.C r/w section 3 & 4 of Probation of Offenders Act has been filed on behalf of convict. Copy supplied to Id. APP.

ORDER ON SENTENCE

Brief summary of arguments on sentence on behalf of Prosecution: -

On behalf of Prosecution, it is submitted that the present case is not an ordinary case but an extraordinary case as victim in this case is none other than a Judge. It is submitted that the convict who was working with the victim became monster and attempted to extort money from her by putting her in fear of life of her children. It is submitted that convict being a government employee was under a double responsibility of doing his duty with utmost diligence and be truthful and faithful to his superior, however, he breached both the responsibilities and indulged in a gruesome crime. It is submitted that he committed this crime by putting the victim Judge in fear for a considerable time for his illegal gain. It is submitted that maximum punishment should be awarded to him so as to send a message to the society. Also, It is submitted that given the enormity of offence the application seeking release on probation filed on behalf of convict may be dismissed.

Brief summary of arguments on sentence on behalf of Convict: -

On behalf of convict, it is submitted that he has already suffered a lot as his job has been lost and he has faced humiliation and indignity in the society. It is submitted that convict is the only son of his parents as his mother is old having disc fracture of backbone and is bed ridden. His father has mouth cancer and he is also severely ill. As a son, he is taking care of his ailing parents through a meagre income from tuitions. It is submitted that accused has four months old daughter and he is taking care of the family. Also, It is submitted that accused has a brilliant academic record and he cleared government examination on the basis of his ability. It is submitted that he committed offence at the age of 27 years and now he is 41 years of age and during the intervening time, he did not commit any other offence as such he is a reformed man

having shown remorse for his acts. He regularly appeared before the Court and he has great respect for the law. It is submitted that considering his poor financial status and the responsibilities, he has he may be awarded a very lenient sentence in the form of undergone. It is submitted that convict may be granted benefit of Probation of Offenders Act considering the overall facts and circumstance and most importantly that he is a first time offender. It is submitted that strict punishment in the form of jail term would destroy the entire family as his other three sisters are married and live separately. It is thus prayed that accused may be awarded the benefit of Probation of Offenders Act.

In Victim Impact Report dated 06.01.2022, it is verified that convict earns Rs. 10,000/- pm and he does not possess any immovable property but his father possesses immovable property and presently he is giving tuitions and lives on rent. Also, it is recommended that convict has sufficient means to compensate the victim and maximum fine be imposed upon the convict to be given to the victim as compensation.

Heard. Perused.

The accused worked as a Ahlmad with the complainant and obviously during that time, he became aware of her family members and her vulnerabilities. The convict acted like an obdurate criminal by continuously texting threatening messages to the victim for extortion. It is a matter of fact that at a workplace trust plays an important role and generally co-employees or officer trust his or her support staff. The convict misused that very trust by becoming aware of the vulnerability of his boss and made a sinister plan to extort money from her by putting her in fear of death of her children. The threat extended by him were direct and same were capable of putting the complainant in fear and the tone and tenor of the messages was enough to raise an alarm to her which had infact caused great fear, anguish and agony in her mind. Being the mother of two children she would have naturally got threatened and same had infact impacted her mind and work. The terror created by convict had certainly disturbed her peace of mind and even the tempo of doing her official duties. Convict has not only betrayed the trust of her boss i.e. complainant but he has also shattered the trust which an officer reposes with his/her support staff. Creating fear in the mind of the Judge affects his/her ability to function properly which directly affects the justice dispensation system and same is an unpardonable act. The crime of the convict is an egregious act which has affected the stream of justice and also created trust deficit among Judges and support staff. The crime committed by convict is required to be dealt in a manner which could prevent recurrence of such incidents in future.

Considering the manner in which the crime has been committed by convict, its nature and the impact on the victim and the justice system the plea raised on behalf of the convict for granting benefit of Probation of Offenders Act is declined as facts do not warrant invocation of benevolent Provisions in favour of the accused in the given set of circumstances.

After balancing the mitigating circumstances against aggravating circumstances, this court is of considered view that the convict be awarded commensurate punishment. Further, this Court is not oblivious of the fact that lenient punishment in cases like these would do more harm to the system as well as encourage other such unscrupulous persons to commit such offence in future. Accordingly, considering the overall facts and circumstances, for the offence **U/S 387 IPC**, he is sentenced to Five Years (05 Years) Simple Imprisonment and fine of Rs. 50,000/- (Rupees Fifty Thousand). Further, for the offence under section **506 (Part II) IPC**, he is sentenced to Two Years (02 Years) Simple Imprisonment and fine of Rs. 50,000/- (Rupees Fifty Thousand). In default of fine, convict shall further undergo Simple Imprisonment for Six months.

However, the sentence must reflect a reformatory approach and considering the same in the light of the submissions made on behalf of the convict by Ld Counsels, it is directed that the sentences shall run concurrently.

No amount of compensation can compensate the agony, trauma and the pain suffered by the victim given the circumstances she had to face, but some sort of compensation in the form of money is necessary in the light of victimology. Accordingly, the amount of fine imposed on convict shall be paid as compensation to the victim considering the mandate of Section 357 CrPC after disbursing the cost incurred by the Prosecution.

Benefit of section 428 Cr.P.C is extended to convict as applicable.

Bail bonds of convict are cancelled. His surety is discharged.

Convicts be taken into custody and sent to JC to serve the sentence.

Copy of this order be given to the convict and be sent with the conviction warrants for compliance.

**Announced in the open court
today i.e. 07.01.2022 at 03:00 p.m.**

(Dr. Pankaj Sharma)
CMM/ND/Patiala House Courts
New Delhi/07.01.2022