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5634 was injured. The appellant was charged with offence under Sections 279, 337 and [338 IPC](#). The learned Judicial First Class Magistrate vide his judgment dated 28.04.1999 convicted the accused under Section [279 IPC](#) and [338 IPC](#) and sentence him to undergo six months imprisonment and fine of Rs.500/- was imposed, in default to undergo simple imprisonment for one month under Section [337 IPC](#).

9. The judgment of this Court in Prakash Chandra Agnihotri (Supra) as relied by learned counsel for the appellant does support his submissions. In the above case, the accused was convicted and sentenced for six months under Section 304A. This Court converted the sentence of imprisonment into fine of Rs.500/-. The Court was of the view that it would be harsh to send the appellant to the Jail after 18 years of the occurrence. Following was observed in paragraph 1 of the judgment: -

"1. The Courts below have maintained the conviction of the appellant under Section 304-A [Indian Penal Code](#). We have gone through the judgments of courts below and we find no infirmity therein. We uphold the conviction. The occurrence took place on February 18, 1972. The appellant has throughout been on bail. He has been sentenced to six months rigorous imprisonment and a fine of Rs.250. We are of the view that it would be rather harsh to send the appellant to jail after 18 years of the occurrence.

The ends of justice would be met if the appellant is asked to pay a fine of Rs.2000/-. The sentence is thus converted to a fine of Rs.2000/-. On realization the amount shall be paid to the family of the deceased girl. The amount be deposited with the Trial Court within two months from today and the trial court shall disburse the same to the

parents of the girl and in absence of the parents to the next of kin of the girl. In default of the payment of fine the appellant shall undergo imprisonment for six months."

10. The incident took place on 16.02.1995 i.e. more than 26 years ago. It appears that appellant was throughout on the bail. The Trial Court after marshalling the evidence has recorded the conviction under Section 279, 338 and awarded sentence of imprisonment of six months and further sentenced to pay a fine of Rs.500/- under Section 337.

11. We do not find any error in conviction recorded by the Trial Court. The conviction of appellant is affirmed, however, looking to the facts and circumstances of the present case specially the fact that 26 years have elapsed from the incident, we are inclined to substitute the sentence of six months imprisonment under Section 279 and 338 into fine. Six months sentence under Section 279 and [338 IPC](#) are substituted by fine of Rs.1000/- each whereas sentence of fine under Section [337 IPC](#) is maintained.

12. The accused may deposit the fine of Rs.1000+1000 i.e. Rs.2000/- within a period of one month in the Trial Court. The judgments of the Courts below are modified to the above extent. The appeal is partly allowed accordingly.

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