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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

DECIDED ON : 5th JULY, 2013

+ **CRL.A. 50/2011 & CRL.M.B. 690/2013**

SHRI BALBIR SINGH Appellant

Through : Mr.Devraj Singh, Advocate with
Ms.Shagun Anirudh, Advocate.

versus

GOVT. OF NCT OF DELHI Respondent

Through : Mr.M.N.Dudeja, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.Garg, J. (Open Court)

1. The appellant- Balbir Singh challenges correctness of judgment dated 25.11.2010 in Sessions Case No. 196/2009 arising out of FIR No. 130/2009 PS Tilak Nagar by which he was held guilty for committing offence punishable under Section 307 IPC. By an order dated 30.11.2012, he was sentenced to undergo RI for five years with fine ₹ 2,000/-.

2. Allegations against the appellant were that on 10.06.2009 at about 06.30 P.M. at House No. WZ- 331, gali No. 19, Guru Nanak Nagar, Tilak Nagar, Delhi, he attacked his wife- Manjeet Kaur with a dao (toka)

and caused injuries on her head and other parts of the body. After completion of the investigation, a charge-sheet was filed against the appellant under Section 307 IPC for which he was duly charged and brought to Trial. The prosecution examined eleven witnesses to establish the guilt of the appellant. On appreciating the evidence and taking into consideration the contentions of the parties, the Trial Court, by the impugned judgment, held the appellant perpetrator of the crime under Section 307 IPC and by an order dated 30.11.2010 sentenced him. Being aggrieved, the appellant- Balbir Singh has preferred the appeal.

3. During the course of arguments, learned counsel for the appellant on instructions from the appellant- Balbir Singh stated that the appellant has opted not to challenge the conviction under Section 307 IPC. He however, prayed for modification of the order on sentence as the appellant has already undergone more than two years and nine months sentence.

4. I have considered the submissions of the parties and have examined the Trial Court record. Since the appellant has not opted to challenge the findings of the Trial Court on conviction under Section 307 IPC, the order of conviction of the Trial Court stands affirmed.

5. Regarding modification of order on sentence, it reveals that the appellant was sentenced to undergo RI for five years with fine ₹ 2,000/-. Nominal roll dated 22.06.2013 reveals that he has already undergone two years, nine months and ten days incarceration as on 22.06.2013. He also earned remission for ten months and twenty days. He is not a previous convict and is not involved in any other criminal case. His overall jail conduct is satisfactory. It is stated that the appellant is aged about 65 years. He married the victim- Manjeet Kaur 44 years ago and at no stage, there was any quarrel between the two. The appellant maintained good conduct during Trial. Only motive to attack the victim alleged is that he wanted to sell the property which was objected to by the complainant/ victim. The counsel on instructions volunteered to pay ₹ 50,000/- as compensation to the victim.

6. Considering the mitigating circumstances, the substantive sentence of the appellant is reduced to four years instead of five years. Other terms and conditions of the order on sentence shall remain undisturbed. The appellant shall deposit ₹ 50,000/- with the Registrar General of this Court within ten days and the amount will be released to the victim/ complainant- Manjeet Kaur as compensation. Notice will be issued to the complainant to receive the compensation.

7. The appeal is disposed of in the above terms. Pending bail application also stands disposed of.

(S.P.GARG)
JUDGE

JULY 05, 2013
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