

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**
RESERVED ON : 13th OCTOBER, 2015
DECIDED ON : 14th OCTOBER, 2015

+ CRL.A.577/2004
HARMESH SINGH & ORS. Appellants
Through : Mr.Sanjeev Manan, Advocate for
A2.
Mr.Sidharth Tyagi, Advocate for
A3.

Versus
THE STATE NCT OF DELHI Respondent
Through : Mr.Sanjeev Sabharwal, APP.

CORAM:
HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J.

1. Sanjay @ Sanjeev (Since expired), Harmesh Singh (Since expired), Gurdev Singh (A-1) and Surender Singh (A-2) were arrested in case FIR No.171/97 for committing offences under Sections 365/366/354/323/506/34 IPC by the police of PS C.R.Park. First Information was lodged after recording statement of the prosecutrix 'X' (assumed name) aged around twenty-four years on 21.04.1997. Statements of the witnesses conversant with the facts were recorded. After completion of investigation, a charge-sheet was filed against all of them in the Court for committing the offences mentioned previously. Sanjay @ Sanjeev expired during trial and proceedings against him were dropped as

‘abated’. The prosecution examined nine witnesses to establish its case. In 313 Cr.P.C. statements the contesting accused persons denied their involvement in the crime and pleaded false implication. On considering the rival contentions of the parties and after appreciation of the evidence, the Trial Court, by the impugned judgment, held all of them guilty for committing offences under Sections 354/34 IPC. It is pertinent to mention that the accused persons were acquitted of the charges under Sections 365/366/323/506 IPC. State did not challenge their acquittal.

2. The instant appeal was preferred by Harmesh Singh, A-1 and A-2. During pendency of the appeal, Haremesh Singh expired and appeal against him stood ‘abated’ vide order dated 19.02.2015.

3. During the course of arguments on behalf of the appellants – A-1 and A-2, the learned counsel stated at Bar that they have opted to give up challenge to the findings recorded on conviction under Sections 354/34 IPC. Prayer was made to modify the sentence order as the incident pertains to the year 1997. The appellants have remained in custody for certain duration.

4. Since the appellants have given up challenge to the findings on conviction, their conviction under Sections 354/34 IPC is affirmed.

5. The appellants were sentenced to undergo RI for one year with fine ₹2,000/- each. The incident is of the year 1997. The appellants have suffered agony / ordeal of trial and appeal for about eighteen years. They are not previous convicts and are not involved in any other criminal case. They have remained in custody for certain period before they were released on bail during trial. They have been acquitted of the main offences under Sections 365 & 366 IPC. Fine is stated to have been deposited. No useful purpose will be serviced to send the appellants to custody particularly when two of them have already expired.

6. Considering the facts and mitigating circumstances, the period already undergone by the appellants in this case shall be treated as substantive sentence. They shall deposit the fine (if unpaid) within two weeks before the Trial Court failing which shall undergo default sentence.

7. The appeal stands disposed of in the above terms. Trial Court record be sent back forthwith with the copy of the order. A copy of the order be sent to the Superintendent Jail for information.

(S.P.GARG)
JUDGE

OCTOBER 14, 2015 / *tr*