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

+ CRL.A. 1106/2011

MAKHAN SINGH

..... Appellant

Through: Mr. Prakash Kumar and Ms. Purnima
Jahuari, Advs.

versus

STATE

..... Respondent

Through: Mr. Amit Ahlawat, APP for State
with SI Naubat Ram, P.S. Mandir
Marg.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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16.04.2015

Appellant has been convicted under Sections 308/324 IPC; sentenced to undergo rigorous imprisonment for three years with fine of ₹5,000/- and in default of payment of fine to undergo rigorous imprisonment for two months for the offence under Section 308 IPC; sentenced to undergo rigorous imprisonment for one a half years with fine of ₹5,000/- and in default of payment of fine to undergo rigorous imprisonment for two months for the offence under Section 324 IPC. Both the sentences have been directed to run concurrently. Benefit of Section 428 Cr.P.C. has also been given to the appellant.

Fine is stated to has been deposited.

Aggrieved by his conviction as also the sentence handed down to him, appellant has preferred this appeal.

Prosecution story, as unfolded, is that appellant was owner of a car. M/s Chima Travels used to engage appellant for their customers and used to pay hire charges to him. On 3rd June, 2006 at about 9:40 pm appellant went to the office of M/s Chima Travels to collect outstanding payments. He was under the influence of liquor at that time. He demanded payment from the Manager of M/s Chima Travels, namely, Jagdish (PW3), who told him to wait till arrival of owner of the travel agency. Appellant picked up a quarrel with PW3 Jagdish on the issue of payment. Two drivers, namely, Gurmeet (PW2) and Mast Ram (PW5) were present in the office and they asked the appellant not to misbehave with Jagdish at which appellant got enraged and picked up a kitchen knife lying on the table and stabbed Gurmeet. When PW3 Jagdish and PW5 Mast Ram intervened, appellant assaulted them also.

PW2 Gurmeet, PW3 Jagdish and PW5 Mast Ram have supported the prosecution story as detailed above. As per the doctor, injuries on the person of PWs were simple. The statement of doctor coupled with MLCs corroborates the statements that they did sustain injuries, which according to the PWs were caused by the appellant. Appellant took a plea that PW2

Gurmeet had misbehaved with him and thereafter attempted to give a *churi* blow on his right thigh. Jagdish and Mastram also grappled with him. All of them sustained injuries in the scuffle. However, trial court has not found the version of appellant reliable since no MLC of appellant was produced. Be that as it may, appellants' presence at the spot is also established from the plea taken by him.

During the course of hearing, counsel for the appellant has given up challenge to the conviction of appellant under Sections 308/324 IPC on merits. I have also perused the trial court record more particularly the statements of PW2, PW3 and PW5 and find them to be trustworthy and reliable witnesses. They have narrated the incident in the manner as has been described in the FIR. No material discrepancy in their statements has been pointed out by the learned counsel, inasmuch as, challenge to the conviction has been given up. Accordingly, conviction of appellant under Sections 308/324 is affirmed.

Now, coming to the question of quantum of sentence to be awarded to the appellant, I find that appellant has no previous criminal record. He was admitted on bail during the trial and also during the pendency of present appeal except that he has remained in custody for more than seven months.

Appellant has a family comprising of his wife, two minor children and aged father who are solely dependent upon him. In my view, the purpose of awarding substantive sentence is two folds; it is punitive as well as reformatory. Appellant has remained in incarceration for more than seven months. His conduct during the trial and while on bail has been satisfactory, inasmuch as, he has not indulged himself in any other offence, while on bail, which indicates that he has reformed himself.

Keeping in mind totality of the circumstances, sentence of appellant is reduced to the period already undergone by him. Personal bond and surety bond are discharged. FDR and original RC filed by the surety in Court be released to him.

Appeal is disposed of in the above terms.

A.K. PATHAK, J.

APRIL 16, 2015

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