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

+ CRL.A. 1137/2011

SANT RAM & ORS

..... Appellants

Through: Mr. Sekhar G. Devassa and Mr.
Sriram Parakkat, Advs. along with
appellants in person.

versus

STATE

..... Respondent

Through: Mr. Amit Ahlawat, APP for State
with SI Jagbir Singh, P.S. New
Usman Pur.
Complainant in person.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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27.04.2015

A perusal of order dated 22nd July, 2014 shows that appeal against appellant no. 2 stands abated.

Appellants have been convicted under Sections 308/323/452/34 IPC by the trial court by the judgment impugned in this appeal. Appellant nos. 1 to 3 have been sentenced to undergo rigorous imprisonment for a period of one year with a fine of ₹1000/- each and in default of payment of fine to undergo simple imprisonment for a period of one month for the offence under Section 452/34 IPC; sentenced to undergo rigorous imprisonment for a period of one year with a fine of ₹1000/- each and in default of payment of fine to undergo simple imprisonment for a period of one month for the

offence under Section 308/34 IPC; sentenced to undergo rigorous imprisonment for a period of three months for the offence under Section 323/34 IPC. Appellant nos. 4 and 5 have been sentenced to undergo rigorous imprisonment for a period of two years with a fine of ₹1000/- each and in default of payment of fine to undergo simple imprisonment for a period of one month for the offence under Section 452/34 IPC; sentenced to undergo rigorous imprisonment for a period of two years with a fine of ₹1000/- each and in default of payment of fine to undergo simple imprisonment for a period of one month for the offence under Section 308/34 IPC and sentenced to undergo rigorous imprisonment for a period of six months under Section 323/34 IPC. All the sentences have been directed to run concurrently. Conviction as well as order on sentence has been assailed in this appeal.

Appellants and complainant-PW1 Shadi Ram and his wife are closely related to each other. Appellant no.1 and PW1 Shadi Ram are real brothers. PW2 Shashi Bala is wife of PW1 Shad Ram. PW1 had sustained grievous injuries; whereas PW2 Shashi Bala had sustained simple injuries in the incident. PW1 has deposed that appellants picked up a quarrel on 20th April, 2008 at around 1:00 pm and gave beating to him and his wife with *dandas*.

Testimonies of PW1 and PW2 and another eye witness PW3 Neeraj have been found trustworthy and reliable by the trial court so as to conclude that appellants had indeed given beatings to PW1 and PW2 resulting injuries on their persons. Injury of PW1 Shadi Ram on his head was opined grievous by the doctor. Accordingly, trial court has concluded that appellants had knowledge that had they caused death of PW1 by their acts they would have been guilty of culpable homicide not amounting to murder. Injuries have been duly proved by PW6 Dr. Parmeshwar Ram, who identified the handwriting and signatures of Dr. Lalit Kumar and Dr. Prabjot on the MLC Ex. PW6/A of PW1 Shadi Ram and MLC Ex. PW6/B of PW2 Shashi Bala. PW6 had deposed that these doctors had left the services of the hospital and their whereabouts were not known.

After arguing for some time, learned counsel for the appellants has given up challenge to the conviction of appellants on merits. However, he submits that appellants and complainant are members of the same family and the quarrel took place between them on trivial issues. He further submits that appellants have no past criminal record, inasmuch as, they have not indulged themselves in any other offence post the present offence, therefore, they be released on probation more so when both the brothers, that

is, appellant no.1 and PW1 Shadi Ram have resolved their differences before the Mediation Centre, Karkardooma Courts, Delhi on 21st July, 2004 in Criminal Complaint Case No.80/08/12 titled Dal Chand vs. Shadi Ram and also in Civil Suit no. 230/14.

Appellant no. 1 is brother of complainant PW1 Shadi Ram whereas PW2 Shashi Bala is his sister-in-law. Appellants and complainant are members of the same family. Appellants have no past criminal record. Property disputes were pending between appellant no.1 and complainant PW1 Shadi Ram when the incident took place. A quarrel took place between them on some trivial matter which resulted into the present incident and in the spur of moment appellants gave beatings to complainant and his wife. Now, appellants and complainant have resolved their differences and settled their disputes, inasmuch as civil suit as well as criminal complaint have been disposed of in view of the settlement before the Mediation Centre.

Keeping in mind totality of the circumstances, while upholding the conviction of appellants, their sentence is modified to the extent that they are released on the probation for a period of one year subject to their furnishing a personal bond in the sum of ₹10,000/- (Rupees Ten Thousand Only) each with one surety in the like amount each subject to the satisfaction of the trial

court.

Appeal is disposed of in the above terms. Miscellaneous applications are disposed of as infurctuous.

A.K. PATHAK, J.

APRIL 27, 2015

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