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

+ CRL.A. 1276/2011

DEEPAK

..... Appellant

Through: Ms. Kanchan, Adv.

versus

STATE

..... Respondent

Through: Mr. Navin K Jha, APP for State with
ASI Jai Prakash, P.S. S.P. Badli.

Mr. R.K. Bharti, Adv. for
complainant with complainant in
person.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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21.04.2015

Appellant has been convicted under Sections 308/323 IPC and sentenced to undergo rigorous imprisonment for a period of five years with fine of ₹5,000/- and in default of payment of fine to further undergo simple imprisonment for a period of two months under Section 308 IPC; rigorous imprisonment for a period of one year with fine of ₹1,000/- and in default of payment of fine to undergo simple imprisonment for 10 days under Section 323 IPC. Both the sentences have been directed to run concurrently. Benefit of Section 428 Cr.P.C. has also been given to the appellant.

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

Appellant and complainant-Anup Singh (PW1) are neighbours. A perusal of judgment shows that a quarrel took place between them on flowing down the dirty water from the house of appellant to the house of complainant. Quarrel took place on 4th July, 2004 at about 8 am. During the quarrel, complainant and his minor son-Rishu were beaten by the appellant by a brick. Injuries sustained by PW1 and his son-Rishu were opined by Dr. Ajay Mehta as simple caused by the blunt object. MLCs have been proved by PW8-Dr.Sanjay Kumar.

Trial court has found the testimony of PW1-Anup Singh and eye witness PW3 Uday Pratap Pandey to be trustworthy and reliable so as to conclude that appellant did assault the PW1 and his son-Rishu on the fateful day. Injured-Rishu had sustained injuries on his head, thus, trial court has concluded that injuries were inflicted by the appellant knowing fully well that had he caused death of Rishu by his acts he would have been held guilty of culpable homicide not amounting to murder. Accordingly, appellant has been convicted under Section 308 IPC with regard to injuries caused to Rishu. He has also been convicted under Section 323 IPC for voluntarily causing simple injury on the person of PW1.

It may be noted here that appellant his brother Sant Ram and sister

Krishna Devi had also sustained simple injuries in the quarrel pursuant whereof cross FIR No. 353/04 under Sections 323/341/34 IPC was registered on the complaint of Krishna Devi. During the pendency of present appeal, appellant and complainant Anup Singh have settled their disputes vide Settlement Deed dated 25th February, 2015 being neighbours in order to maintain harmonious relations in future. Complainant has condoned the acts of appellant, inasmuch as, appellant has compensated the complainant towards the medical expenses etc. by paying ₹30,000/-. PW1- Anup Singh being natural guardian of Rishu has settled the matter on his behalf as well.

It has been further pointed out that appellant, his brother and sister have also pardoned PW1 and the FIR 353/04 under Sections 323/341/34 IPC has already been compounded with the permission of trial court.

Since guilt of appellant has been established by the judgment impugned in this appeal, therefore, I am not inclined to quash the FIR on the ground of compromise at the appellate stage.

At this stage, learned counsel for the appellant submits that conviction of appellant is not assailed on merits in this appeal. However, sentence of appellant be reduced to the period already undergone by him which is about

six months. It has been further submitted that fine imposed by the trial court has already been deposited.

Keeping in mind that appellant and complainant are living in the same locality for more than 15 years and the quarrel took place between them on a trivial matter resulting in registration of cross FIRs; appellant has no previous criminal record nor has indulged himself in any other crime while he was on bail, I am of the view that sentence of appellant can be reduced to the period already undergone by him more particularly in view of compromise arrived at between the parties. Accordingly, while upholding the conviction of appellant under Sections 308/323 IPC his sentence under both the provisions is reduced to the period already undergone by him. Bail bond and surety bond are discharged.

Appeal is disposed of in the above terms.

A.K. PATHAK, J.

APRIL 21, 2015

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