

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

RESERVED ON : MAY 01, 2015

DECIDED ON : MAY 05, 2015

+ CRL.A.1297/2014

NASIM

..... Appellant

Through : Mr.Rajender Chhabra, Advocate.

versus

STATE

..... Respondent

Through : Ms.Kusum Dhalla, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J.

1. Nasim (the appellant), Salim @ Samim and Mohd.Wasim were sent for trial in Case FIR No.213/12 under Sections 307/341/506/34 IPC registered at Police Station Shahabad Diary on the allegation that on 05.07.2012 at about 3:30 p.m. near Sulabh sochalaya, Sector 27, Rohini they in furtherance of common intention inflicted injuries to Rahul @ Jagga. The victim was taken to hospital and nature of injuries was opined 'simple'. The accused persons were arrested and charge-sheet under Section 307/341/506/34 IPC was filed against them in the Court.

2. The prosecution examined six witnesses including victim-PW-1 (Rahul @ Jagga) and PW-2 (Saddam @ Govinda). In 313 statement, the accused persons denied their involvement in the crime. Nasim and Mohd. Wasim were convicted and Salim @ Samim was exonerated and acquitted of the charges. Mohd.Wasim was released on probation whereas Nasim was awarded RI for five years with fine ₹10,000/-. Hence the appeal.

3. I have heard the learned counsel for the parties and have examined the file. Appellant's counsel urged that ingredients of Section 307 IPC are not attracted. The victim never suffered any stab injury as the depth of the wound was one centimeter; the knife was never recovered during investigation.

4. There exist no valid reasons to disbelieve the testimony of victim- Rahul @ Jagga who sustained injuries on his body in the quarrel that ensued between him and the assailants on 05.07.2012 at about 3:30 p.m. The FIR was lodged on victim's statement (Ex.PW-1/A) where at the earliest he named the appellant as one of the assailants to have inflicted injuries to him by a knife. MLC (Ex.PW-3/A) corroborates his testimony. He was taken to Maharishi Valmi hospital at around 4:18 p.m. by his friend Govinda. The appellant has not denied presence of injuries

on his body. His only contention is that these were self-inflicted by a blade. The submission is devoid of merit as nothing was suggested in the cross-examination of PW-3 (Dr.Rajan Kumar Mishra) if the injuries mentioned in the MLC (Ex.PW-3/A) were self-inflicted. The victim had no reasons to self-inflict the injuries and to falsely implicate the appellant and his associates with whom he had no prior animosity. PW-2 (Saddam @ Govinda) who had taken the victim to the hospital soon after the incident has deposed on similar lines and has implicated the appellant to have stabbed the victim by a knife. In the cross-examination, no material infirmities could be extracted. The complainant has attributed specific role to the assailants and has given motive to cause injuries to him. There are no reasons to disbelieve the complainant. It stands established that the appellant was one of the assailants to cause injuries to the victim.

5. I am of the view that ingredients of Section 307 IPC are not attracted in this case as the quarrel had taken place suddenly when the appellant had inquired from the victim whereabouts of his friend 'Lahis' with whom the appellant had prior animosity. Apparently, there was no previous ill-will or enmity between the appellant and the victim. The injured had suffered single stab wound. No repeated blows were inflicted with the sharp weapon on vital organs. The victim was fully conscious

and oriented at the time he was taken to hospital; he was discharged from the hospital same day. The nature of injuries being 'simple' was not dangerous to the victim's life. The appellant had no ulterior motive to bring an end to the victim's life. It was a simple case of quarrel where simple hurt by a sharp object was caused to the victim at the spot. Initially, FIR registered was under Section 324 IPC.

6. Initially, the victim implicated Salim @ Samim, appellant's brother also for inflicting injuries to him in furtherance of common intention of his brothers. However, in his Court statement, he completely exonerated him and introduced the name of another assailant Suraj. It appears that for certain reasons, the victim opted to exonerate Salim @ Samim. The other co-victim Mohd. Wasim was released on probation by the Trial Court. Nominal roll dated 24.11.2014 reveals that the petitioner has already suffered incarceration for nine months and twenty nine days besides remission for one month and seventeen days as on 21.11.2014. He is not a previous convict though his involvement in two cases has been reflected therein. His overall conduct in jail is satisfactory. He was aged about 23 years on the day of incident.

7. Considering the facts of the case, the findings of the Trial court on conviction are modified to the extent that the offence committed

by the appellant was under Section 324 IPC. Sentence order is modified to the extent that the period already undergone by the appellant shall be taken as substantive sentence. However, the appellant shall pay ₹15,000/- as compensation to the victim and shall deposit it in the Trial Court within two weeks. The compensation amount shall be released to the victim after due notice.

8. The appeal stands disposed of in the above terms. Trial Court record (if any) along with a copy of this order be sent back forthwith. A copy of the order be sent to Jail Superintendent, Tihar Jail for intimation. The appellant shall be released forthwith if not required to be detained in any other case.

(S.P.GARG)
JUDGE

MAY 05, 2015
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