

\$~61

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

+ CRL.REV.P. 177/2016

SONU & ORS

..... Petitioners

Through: Mer.Naveen Gaur, Advocate.

versus

STATE

..... Respondent

Through: Ms.Rajni Gupta, APP for the State
with SI Sumer Chand, PS Nabi
Karim.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

27.05.2016

CRL.REV.P. 177/2016

1. This revision petition has been filed by the revisionists impugning the order dated 20.02.2016 whereby the appeal preferred by them challenging their conviction and sentence awarded for committing the offence punishable under Section 323/34 IPC, was dismissed by learned Appellate Court.
2. In brief, the case of the prosecution against the revisionists and their co-accused Ravi that on 14.09.2007 they entered house of Babita, daughter of the complainant Laxmi Devi and started abusing and complaining about they being falsely implicated by Babita and her husband saying that they would teach them a lesson.
3. All the accused persons were charged for the offences punishable

under Section 452/323/34 IPC to which they pleaded not guilty and claimed trial.

4. The prosecution examined ten witnesses in all in support of its case. Statement under Section 313 Cr.P.C. of the accused persons have also been recorded to enable them to explain the incriminating evidence against them.

5. After conclusion of trial, all the accused persons were acquitted of the charge under Section 452/34 IPC. However they have been convicted for committing the offence punishable under Section 323/34 IPC and sentenced to undergo SI for one year.

6. Feeling aggrieved by their conviction and sentence awarded for committing the offence punishable under Section 323/34 IPC, they preferred Crl.A. No.21/2015. The Appellate Court considered the judgment of conviction and finding no infirmity in the same, dismissed the appeal vide order dated 20.02.2016. It appears that the revisionists did not make any submissions on the quantum of sentence.

7. Learned counsel for the revisionist, on instructions, submits that the revisionists namely Sonu, Shankar and Manoj are not challenging their conviction and prays, that lenient view may be taken on the quantum of sentence.

8. Since apart from revisionists namely Sonu, Shankar and Manoj, co-accused Ravi has also been convicted and sentenced vide impugned judgment and order on sentence, production warrant was issued to produce co-convict Ravi.

9. Co-convict Ravi has been produced from J/C today. He submits that though he has not preferred any revision petition against the order of dismissal of his appeal, but he is not challenging his conviction under

Section 323 IPC and a lenient view may be taken on the point of sentence.

10. Learned counsel for the revisionists submits that the learned Trial Court, disbelieving the testimony of the prosecution witnesses, though acquitted the revisionists and their co-convict Ravi of the main offence i.e. for committing the offence punishable under Section 452/34 IPC, convicted them for committing the offence punishable under Section 323 IPC, a lenient view may be taken on the point of sentence as the revisionists are not challenging their conviction.

11. Considering that the revisionists and their co-accused Ravi have been acquitted of the main offence punishable under Section 452/34 IPC and they are not challenging their conviction for committing the offence punishable under Section 323/34 IPC, I am inclined to take a lenient view in the matter.

12. Section 323 of Indian Penal Code provides punishment for one year or fine of ₹1000/- or both.

13. Accordingly, the revision petition is allowed to the extent that while maintaining the conviction of the revisionists and their co-convict Ravi for committing the offence punishable under Section 323 IPC, the order on sentence is modified to the extent that the revisionists and their co-convict Ravi are sentenced to pay a fine of ₹1000/- each. In default of payment of fine, they shall undergo SI for one week.

14. Revision petition stands disposed of accordingly.

15. The revisionists and the co-convict are directed to deposit the fine amount with the learned Trial Court with two weeks.

16. Copy of the order be sent to the learned Trial Court for information and compliance.

17. Copy of this order be also sent to the concerned Jail Superintendent for information.

As prayed, copy of the order be also given dasti to learned counsel for the parties.

Crl.M.B.Nos.427-429 of 2016

Dismissed as infructuous.

PRATIBHA RANI, J.

MAY 27, 2016/ 'st'