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

+ CRL.A. 499/2015 with Crl. M.A. 7770/16 & Crl. M.B. 3391/15

LAKHA SINGH & ANR

..... Appellants

Through: Mr.Raghav Kapoor and Mr.Ranu Singh, Advocates.

versus

THE STATE NCT OF DELHI

..... Respondent

Through: Mr.Sudershan Joon, APP for the State with SI Anwar Khan, PS K.N. Katju Marg.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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18.05.2016

1. This criminal appeal has been preferred by the appellants Lakha Singh and Harjinder Singh, impugning their conviction for committing offence punishable under Section 323/34 IPC as well the order of sentence whereby they have been sentenced to undergo imprisonment for a period of one year and also to pay a fine of ₹1,000/- each.
2. Both the appellants are present in person with their counsels.
3. Learned counsel for the appellants submits that the petition for suspension of sentence of the appellants during the period of one month from the date of their sentence was suspended by the Trial Court vide order dated 26th November, 2014, and the application for further suspension of sentence could not be filed as the counsel met with a serious accident and suffered multiple fractures. The appellants being illiterate and poor, could neither afford another counsel nor could file any application for suspension of sentence.

4. Learned counsel for the appellant further submits that on account of his accident and consequential inability to seek legal remedy for the appellants, the appellants may not be punished.
5. Learned counsel for the appellants further submits that in this case the appeal itself can be disposed of today as the appellants do not want to challenge their conviction.
6. Both the appellants submit that they have no previous criminal antecedents. Out of the sentence of one year awarded to them, Lakha Singh has undergone seven months in custody whereas Harjinder Singh has undergone 7 ½ months in custody. They have also deposited the fine imposed on them by learned Trial Court. The prayer made before this Court is for reducing the substantive sentence to the period already undergone by both of them in custody.
7. Both the appellants have been convicted for committing the offence punishable under Section 323/34 IPC which is non-cognizable and bailable offence. The punishment prescribed for committing offence punishable under Section 323 IPC is imprisonment for a term which may extend to one year or with fine which may extend to ₹1,000/- or with both.
8. Both the appellants have already deposited the fine of ₹1,000/- each. The maximum punishment provided for committing offence under Section 323 IPC being one year and both the appellants having already undergone substantial part of sentence awarded to them i.e. seven months by Lakha Singh and 7 ½ months by Harjinder Singh. It would meet the interest of justice if their substantive sentence awarded to them is reduced to the period already undergone by them.

9. Substantive sentence awarded to the petitioner is reduced to the period already undergone by them in custody. The appeal stands disposed of.

10. LCR has not been received so far. Copy of the order be sent to Trial Court for information and record.

PRATIBHA RANI, J.

MAY 18, 2016
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