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

+ **CRL.A. 869/2015**

% *Judgment dated: 29th April, 2016*

PANKAJ SOOD (THROUGH PAIROKAR) Appellant

Through : Mr. Rajbir Singh Gulia, Mr. Rahul Bhagat, Mr. Ashok Kumar Sharma and Mr. Deshpal, Advocates.

versus

STATE (NCT OF DELHI) Respondent

Through : Ms. Aashaa Tiwari, APP for State with Inspector Anand Swaroop and SI Neeraj, PS – Hauz Khas.
Mr. Dharam Raj Ohlan, Advocate for the complainant.

+ **CRL.A. 896/2015**

SUNNY JAGLAN Appellant

Through : Mr. Dharam Raj Ohlan, Advocate.

versus

STATE OF NCT OF DELHI & ANR Respondents

Through : Ms. Aashaa Tiwari, APP for State with Inspector Anand Swaroop and SI Neeraj, PS – Hauz Khas.
Mr. Rajbir Singh Gulia, Mr. Rahul Bhagat, Mr. Ashok Kumar Sharma and Mr. Deshpal, Advocates for Respondent no.2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G. S. SISTANI, J. (ORAL)

1. Crl.A.No.869/2015 has been filed by the appellant Pankaj Sood for setting aside the judgment dated 30.05.2015 and order on sentence dated 06.06.2015 passed by the Additional Sessions Judge whereby the learned Trial Court has convicted the appellant under Section 307 IPC and sentenced him to undergo rigorous imprisonment for a period of four years and imposed a fine of Rs.50,000/-, in default of payment of fine to undergo six months simple imprisonment.
2. Crl.A.No.896/2015 has been filed by the victim Sunny Jaglan seeking enhancement of the sentence which has been awarded to respondent no.2(appellant in Crl.A.869/2015).
3. With the consent of the parties, both the appeals are set down for final hearing and disposal.

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4. Counsel for the parties submit that the parties have entered into an amicable settlement.
5. Counsel for the victim Sunny Jaglan (appellant in Crl.A.896/2015) submits that he has instructions not to press this appeal, subject to the condition that the appellant Pankaj Sood through his parokar gives an undertaking to this Court that he will withdraw C.C. No. 198/1/2010, Police Station Hauz Khas pending before Saket Courts, Delhi.
6. Counsel for the appellant Pankaj Sood in Crl.A.869/2015 submits

that he had appeared before the Saket Courts where the matter was listed but the concerned Judge was on leave. A statement with respect to C.C. No. 198/1/2010, Police Station Hauz Khas was made but no formal order could be passed as the Judge was on leave. Counsel and the parokar undertake to withdraw the aforesaid C.C. No. 198/1/2010.

7. Consequently, Crl.A.No.896/2015 stands dismissed as withdrawn.

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8. Counsel for the parties submits that a settlement has been arrived at between the appellant and the victim. Counsel for the appellant submit that he has instructions not to press the appeal on merits and in view of the settlement entered into between the parties, the order on sentence of the Trial Court should be modified to the period already undergone.
9. Before the submissions of the parties can be considered, we deem it appropriate to notice the case of the prosecution before the Trial Court, which is reproduced as under:

“1. DD No. 30-A, dated 16.10.2010 lodged at PS Hauz Khas set the police machinery in action. Sub-Inspector Nihal Chand was assigned the same, who alongwith Constable Harkesh reached at the Moolchand Hospital where injured Sunny Jaglan was brought, however, later on he had left for the Medi City Hospital, Gurgaon. His MLC was collected by the Investigating Officer and on 18.10.2010, he went to Medi City Hospital, Gurgaon. The injured was declared unfit for statement. He was discharged from the hospital on that day itself. On

23.10.2010 statement of injured Sunny Jaglan was recorded by the Investigation Officer at Panipat, Haryana and based upon the statement of the injured, an FIR bearing no. 346/2010 was got registered, which was to the effect that while injured was travelling with his friend, in a traffic jam, on a trivial issue of touching of the cars a scuffle took place between the driver of the other car with complainant Sunny Jaglan, in which he got certain injuries. Public gathered at the spot. Accused / aggressor took the injured to the Moolchand Hospital. On 17.10.2010, Investigating Officer found the vehicle of accused being parked in the Moolchand Hospital. He seized the same vide seizure memo Ex.PW9/C and got the car mechanically inspected vide his request Ex.PW9/D and obtained the report Ex.PW6/A. He also collected the medical papers from the hospitals and made search for accused.

2. Accused Pankaj Sood himself surrendered before the Court after dismissal of his anticipatory bail applications from the Hon'ble High Court of Delhi and Hon'ble Supreme Court. Then, on completion of certain necessary formalities of the investigation i.e. arrest of the accused and preparation of the site plan etc. chargesheet was filed and as the case was registered initially under Section 308 IPC, but later on Section 307 IPC was brought in, which being triable by the court of Sessions, therefore, it was committed to the court of Sessions after compliance of Section 207 Cr.P.C. Based upon the allegations in the charge sheet, a charge was framed against accused Pankaj Sood under Section 307 IPC to which he pleaded not guilty and claimed trial.

3. Prosecution, in order to substantiate the allegations against the accused, sought to examine ten witnesses and managed to examine 9 out of them. On conclusion of

evidence, statement of accused under Section 313 Cr.P.C. was recorded in which evidence against him was put to him in order to have his version of things. Expectedly, he refuted the same and opted to lead evidence in defence. DW-1 Dr. L. C. Gupta and DW-2 Ajay Kumar were examined and thereafter defence evidence was closed.”

10. The facts of the case as these unfold are that on 16.10.2010, the injured was travelling with his friend. Due to heavy traffic jam, the car of the appellant and the victim touched which led to a scuffle. The complainant received certain injuries. The victim was taken to the hospital by the appellant herein. Initially, a case under Section 308 IPC was registered, however, subsequently a charge under Section 307 IPC was framed. Nine witnesses were examined by the prosecution. Statement of the accused was recorded under Section 313 of the Code of Criminal Procedure. Two witnesses were produced by the defence.
11. In addition to the ground that parties have arrived at an amicable settlement, counsel for the appellant has pleaded that the order on sentence should be modified to the period already undergone on the ground that the scuffle took place at the heat of the moment and the appellant had no intention to cause injuries to the victim. He further submits that although the victim was hospitalised, but he was discharged on the same date. Counsel has strongly urged before this Court that the conduct of the appellant be also considered as realising his mistake, the appellant brought the victim to the hospital for medical aid and now the parties have amicably resolved the matter.

12. It has also been strongly urged before this Court that the appellant has learnt his lesson as he has been incarcerated for a period of more than 11 months. He is the only earning member of the family and he has a family who are solely dependent on him.
13. Counsel for the victim has also supported the case of the appellant to the extent that the order on sentence may be modified. Counsel for the victim submits that in view of the settlement, the appeal filed by the victim seeking enhancement of the sentence has been withdrawn.
14. We have heard the learned counsel for the parties.
15. We may notice that the appeal filed by the victim stands dismissed as withdrawn. Parties have arrived at an amicable settlement and the complaint filed by the appellant against the victim has also been withdrawn. The parokar has already made a statement regarding withdrawal of the said complaint. Cases of road rage are on the increase and, in our view, the menace of road rage must be curbed with an iron hand. The numbers of vehicles have increased manifolds and the city has not been able to keep pace with infrastructure in the form of roads, parking and other facilities and, on the other hand, the pace of life in the city has increased and the citizens are always in a rush. Patience, considerations and curtesy to one another is vanishing in our society.
16. Keeping in view the submissions which have been made in this case, the settlement which has been arrived at between the parties and, also having regard to the fact that the appellant had removed the victim to the hospital for medical aid, the victim was discharged from the hospital same date, we modify the sentence of the appellant to the

period already undergone.

17. The appeal is accordingly allowed. The appellant shall be released forthwith, if he is not required in any other case.

CRL.M.(BAIL) 7534/2015 in CRL.A. 869/2015

18. In view of the order passed in the appeal, the application is rendered infructuous.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

APRIL 29, 2016

sc/pst