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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.A. 1099/2015 & Crl.M.B.1488/2016
MOHAN Appellant
Through : Mr. S. K. Sethi and Ms. Dolly Sharma,
Advs.
Appellant produced from JC.
versus
STATE Respondent
Through : Mr. Sudershan Joon, APP with SI
Uma Datt PS Mangol Puri.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **05.10.2016**

Crl.A.1099/2015

Trial court record has been received. With the consent of parties, appeal is taken up for hearing.

Arguments heard and record perused.

Vide judgment dated 2nd July, 2015, trial court has convicted the appellant under Section 308/506 Part II IPC and vide order on sentence dated 14th July, 2015, appellant has been sentenced to undergo rigorous imprisonment for five years with fine of ₹20,000/- and in default of payment of fine to undergo simple imprisonment for two months under Section 308 IPC; sentenced to undergo simple imprisonment for two years with fine of

₹5,000/- and in default of payment of fine to undergo simple imprisonment for fifteen days under Section 506 Part II of IPC; has also been directed to pay a compensation of ₹40,000/- to victim Smt. Asha w/o Late Shri Banwari Tanwar and in default of payment of compensation to undergo simple imprisonment for four months. All the sentences have also been directed to run concurrently. Benefit under Section 428 Cr.P.C. has also been granted to appellant.

Prosecution story, as unfolded from the records, is that appellant is a distant relative of complainant/victim PW-1 Asha. FIR No.830/2013 under Sections 307 IPC was registered at police station Mangol Puri on 19th December, 2013 on the statement of PW-1 Asha; wherein she stated that on 19th December, 2013, she was returning home from Peera Garhi and when she reached near Mangol Puri Railway Station, appellant met her and asked her to give some money to him. When she refused to give any money to appellant, he took out a knife from the pocket of his pant and stabbed her on her neck, abdomen and hip and thereafter, ran away. PW-1 was removed to SGM Hospital by a PCR van. As per the MLC, one incised wound on abdomen, one incised wound on lower hip and two superficial incised wounds on left side of neck and left thumb were found.

PW-1 was treated in the hospital. PW-1 has corroborated the version as contained in the FIR, while deposing in Court. Her testimony has remained unshattered in her cross examination and has been found trustworthy and reliable by the trial court. PW-5 Dr. Bina proved the MLC as Ex.PW-5/A, according to which aforesaid injuries were found on the person of PW-1. PW-5 has stated that injuries were grievous in nature. Other witnesses examined by the prosecution are police officials, having joined the investigation at one or the other stage. Relying on the testimony of PW-1, PW-5 and the MLC, trial court has convicted the appellant.

During the course of hearing, learned counsel for the appellant, on instructions of appellant present in Court, has given up the challenge to the conviction of appellant on merits. Learned counsel has failed to point out any illegality or irregularity in the findings of fact returned by the trial court. However, he has prayed for a leniency in sentences awarded to appellant by the trial court. It is contended that appellant has no previous criminal record and has clear antecedents. Purpose of awarding substantive sentence of imprisonment is two folds. It is punitive as well as reformatory. Since appellant has no past criminal record and his conduct in jail has been satisfactory, it is evaded that he has reformed himself. The incident occurred

all of a sudden and in a fit of rage appellant stabbed the victim. Assault was not premeditated. Appellant is in jail almost for about three years.

Keeping in mind the totality of facts and circumstances, while affirming the conviction of appellant under Sections 308/506 Part II of IPC, his substantive sentences are reduced to the period already undergone by him. However, sentences of fine and direction of payment of compensation, are maintained as it is.

Appeal is disposed of in the above terms. Miscellaneous application is disposed of as infructuous.

Copy of the order be sent to the Jail Superintendent for serving on the appellant and for compliance.

A.K. PATHAK, J.

OCTOBER 05, 2016/dk