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

% *Date of Decision: November 13, 2017*

+ **CRL.A. 57/2011**

KANWALJEET SINGH Appellant

Through: Mr.Mukesh Kalia, Advocate
with Mr.Akshay Verma and
Mr.Haanumant Shakhujia,
Advocate and appellant in
person.

versus

STATE Respondent

Through: Mr.Kewal Singh Ahuja, APP
for the State with ASI Shri
Ram, PS Hari Nagar.

PRATIBHA RANI, J. (Oral)

1. The appellant has preferred the instant appeal under Section 374 Cr.P.C. assailing the judgment dated 16th December, 2010 and order on sentence dated 21st December, 2010 passed in Sessions Case No.135/2009 (in case FIR No.546/2005 under Sections 452/307/506 IPC, PS Hari Nagar) whereby he has been convicted for committing the offence punishable under Sections 452/307/506 IPC and sentenced as under:-

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|------|-------------|---|--|
| (i) | U/S 452 IPC | : | to undergo RI for three years with fine of ₹5,000/- and in default of payment of fine, to undergo SI for six months. |
| (ii) | U/S 307 IPC | : | to undergo RI for three years with fine of ₹5,000/- and in default of payment of fine, to undergo SI for six months. |

- (ii) U/S 506 IPC : to undergo RI for one year with fine of ₹3,000/- and in default of payment of fine, to undergo SI for two months.

All the sentences were ordered to run concurrently.

2. Appellant is present in person alongwith his counsel.
3. Mr.Mukesh Kalia, learned counsel for the appellant submits that in this case, all the four public witnesses/injured did not support the case of prosecution and were declared hostile. Despite that, the learned Trial Court convicted the appellant for committing the offence punishable under Section 452/307/506 IPC and sentenced him in the manner stated above.
4. Learned counsel for the appellant, on instructions, submits that appellant is not challenging his conviction in this case. However, prayer has been made for taking a lenient view on the quantum of sentence. Learned counsel for the appellant submits that the appellant has remained in custody for about 3½ months in this case and has already deposited the fine of ₹13,000/- imposed by the learned Trial Court. The appellant is a poor man working as a helper in a factory to earn his livelihood. He has to also lookafter his wife and aged mother, who is 75 years old and suffering from neurological problems for past many years. Learned counsel for the appellant submits that appellant is not involved in any other case except this case. The matter in this case also stands settled with the injured/public witnesses which can be ascertained from the Trial Court Record.
5. The appellant has also filed written submissions to the above effect and prays for taking a lenient view on the quantum of sentence.

6. Since the appellant is not challenging his conviction under Section 452/307/506 IPC, the same is upheld.

7. Now coming on the quantum of sentence, taking into consideration the submissions made on behalf of the appellant that he is not involved in any other case prior to registration of this case or even thereafter and that he has to look after his aged mother who is suffering from neurological problems, the substantive sentence awarded to the appellant for committing the offence punishable under Sections 452/307/506 IPC is reduced to the period already undergone by him in this case. However, the fine imposed on the appellant is enhanced by ₹75,000/- in addition to the fine amount of ₹13,000/- imposed by the learned Trial Court.

8. The appellant is directed to deposit the enhanced fine of ₹75,000/- within four weeks, failing which he shall undergo imprisonment for six months.

9. The appeal is allowed only to the extent of modification of order on sentence to the above extent.

10. TCR be sent back along with copy of this order. Copy of this order be sent to the concerned Jail Superintendent for information.

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

PRATIBHA RANI
(JUDGE)

November 13, 2017
'st'