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

+ CRL.A. 671/2017

SHYAM

..... Appellant

Through :Mr. Ankur Sood and Ms. Romila
Mandal, Advs.

versus

STATE

..... Respondent

Through :Mr. G.M. Farooqui, APP with SI
Rahul Kumar, P.S. Jagat Puri

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

ORDER
% **08.09.2017**

Challenge in this appeal is to the judgment dated 5th January, 2016 passed by the Additional Sessions Judge, Fast Track Court, Shahdara, Karkardooma Courts, Delhi, whereby appellant has been convicted under Section 307 IPC and vide order on sentence dated 7th January, 2016, has been sentenced to face rigorous imprisonment for five years with fine of ₹10,000/- and in default of payment of fine to undergo six months rigorous imprisonment.

As per the prosecution, an information was received in the Police

Station Jagat Puri vide DD No. 20-A dated 26th July, 2014 at about 11:55 am, that a person had been stabbed with a knife at Chander Nagar, near S.K. Property Dealer. Pursuant to this information, SI Rahul Kumar along with HC Kirpal reached the spot, that is, F-28, Chander Nagar, Delhi. No eye-witness was found there, therefore, SI Rahul Kumar and HC Kirpal went to Dr. Hedgewar Hospital, where SI Rahul Kumar recorded the statement of injured, namely, Sharafat and pursuant thereof FIR No. 479/2014 under Section 307 IPC was registered at Police Station Jagat Puri. Complainant/injured alleged in the FIR that appellant used to work with him at the momos shop of Kewal Singh @ Akash. On 26th July, 2014 at about 11:55 am, appellant was cutting cabbage while he was preparing batter. Appellant asked him to cut onions, at which he responded by saying that he should cut the onions. Appellant picked up a quarrel with him on this point and stabbed him 3-4 times by a knife. Doctor opined the injuries of complainant to be simple.

Complainant/injured was examined as PW4. He proved his statement as Ex. PW4/A and corroborated the prosecution version, as contained in the FIR. Trial court has found the testimony of PW4 to be trustworthy and reliable. Shop owner Kewal Singh @ Akash was examined as PW1. As per

the prosecution, he had witnessed the incident. However, while deposing in Court, PW1 has not supported the prosecution version. PW2 HC Mahipal Singh had recorded the FIR and proved the same in Court as Ex. PW2/A. PW3 HC Kirpal Singh had accompanied the Investigating Officer/PW5 SI Rahul Kumar to the spot and thereafter to the hospital. He had taken the rukka to police station and got the FIR registered. PW3 is also a witness to the arrest of appellant and recovery of knife. He has deposed in this regard. PW5 SI Rahul Kumar supported the prosecution version regarding the entire investigations conducted by him. He proved his endorsement on the statement of PW4 as Ex. PW5/B. He also proved disclosure statement of appellant, pursuant whereof knife was got recovered by the appellant, as Ex. PW3/C. Site plan was proved by him as Ex. PW5/E. PW6 Dr. Prasad proved MLC of complainant/injured as Ex. PW6/A. PW7 Dr. Shalini, who had examined PW4 Sharafat and prepared the MLC, has deposed in this regard. PW8 Dr. Sachin had conducted the x-ray of the injured. He has stated that no bone injury was found on the person of PW4.

In his statement recorded under Section 313 Cr.P.C., appellant has simply stated that he was innocent. He did not lead any evidence in his defence. On the basis of the statement of PW4, which trial court found

trustworthy and reliable, coupled with the MLC Ex. PW6/A, trial court concluded that appellant was guilty of having committed the offence under Section 307 IPC.

During the course of hearing, learned counsel for the appellant, has failed to point out any illegality in the impugned judgment, inasmuch as has given up challenge to the conviction of the appellant on merits. He has only prayed for leniency in the sentence. It is noted that appellant has also filed an application being Crl. M.A. No. 10788/2017 for releasing him on the sentence already undergone by him.

I have also perused the trial court record and do not find any illegality in the impugned judgment as regards conviction of the appellant is concerned. Appellant is a young man. He has no past criminal record. His jail conduct is satisfactory. Appellant has already completed more than 3½ years. Appellant belongs to poor strata of society and even has not been able to pay fine imposed upon him. He was working as a helper in a momos shop. Appellant is the only child of his parents, who are stated to be old and ailing.

Keeping in view the facts and circumstances of this case, the sentences are reduced to the period already undergone by him. Appellant be

released from the jail forthwith, if not required in any other case.

Appeal is disposed of in the above terms. Miscellaneous applications are disposed of as infructuous. Dasti.

A.K. PATHAK, J.

SEPTEMBER 08, 2017
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