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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
DECIDED ON : 19th DECEMBER, 2017
+ **CRL.A. 1050/2011 & CrI.M.A.8510/2014 (u/S 482 Cr.P.C.)**

NARESH @ PAPPU

..... Appellant

Through : Mr.I.A.Alvi, Advocate, along with appellant
present in person.

Versus

STATE NCT OF DELHI Respondent

Through : Mr.Hari Shankar, Advocate, along with
complainant present in person.

CORAM:
HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. By a judgment dated 08.08.2011 of learned Addl. Sessions Judge in Sessions Case No.197/2008 arising out of FIR No.57/07, Police Station Kanjhawala, the appellant Naresh @ Pappu was held guilty for committing offence punishable under Section 308 IPC for inflicting injuries to his wife PW-1 (Sushila). By an order dated 10.08.2011 the appellant was sentenced to undergo Rigorous Imprisonment for two years with fine ₹5,000/-. Aggrieved by the said findings, the present appeal has been filed.

2. During the course of arguments, the appellant opted to give up challenge to the findings recorded by the Trial Court on conviction. He

urged that lenient view be taken as the matter has been settled/compounded with the injured/complainant.

3. I have examined the file. Several injuries were inflicted by the appellant on the person of PW-1 (Sushila), his wife on 29.03.2007 by a sharp weapon. The prosecution was, however, unable to establish as to what was the appellant's motive to cause injuries to his wife. It has come on record that both the appellant and the victim were living together at the matrimonial home and were blessed with two sons who have since been married. The children live with the appellant in the village. Presently, the victim is living with her father. When the matter was listed for disposal, the complainant appeared in person and urged to take lenient view as the matter stood settled with the appellant. The court was not satisfied with the settlement arrived at with the appellant. With the assistance of the counsel for the complainant as well as the appellant, various attempts were made to reunite the parties. Even the victim's sons were called to participate. They too supported their father; the parties could not be reunited.

4. Again, the complainant along with her counsel prayed to release the appellant for the period already undergone; she was not interested for his further incarceration. The appellant was asked to pay a reasonable amount of compensation to the victim as she would have to maintain herself while staying with her father. Again, settlement talks continued between the parties. By an order dated 29.07.2016, the appellant agreed to pay ₹1,00,000/- to the complainant by way of demand draft in her name within a week through Investigating Officer without prejudice and subject to future adjustment (if any) to show

bona-fide. It was informed that the parties were exploring the possibility of final settlement of all the disputes including divorce; the said sum of ₹1,00,000/- was paid to the complainant.

5. Subsequently, the matter was settled and both the parties filed petition to seek divorce by mutual consent. The divorce has since been granted by the court. The complainant informed this Court that in the divorce proceedings, she has received an amount of ₹4,00,000/- in all and at present she is living with her father. She again urged the court not to award any further sentence to the appellant.

6. Apparently, the matter has been settled with the appellant by the victim/wife. The parties could not be reunited due to certain difficulties informed by the appellant's counsel during arguments which need not to be recorded in the order. This, however, finds mention in the statement of victim's son who appeared as DW-1 (Ajay Shokeen).

7. In *Ishwar Singh vs. State of Madhya Pradesh* 2009 (1) JCC 593, the Supreme Court observed that in case settlement takes place in offence which was not compoundable, say 307 IPC, the court may take into account a relevant important consideration about the compromise between the parties for the purpose of reduction of sentence.

8. In the instant case, the appellant has suffered detention for certain duration. He has suffered the ordeal of trial and appeal for about ten years; he is 54 years old now. The matter has been settled/compounded with the complainant amicably. Divorce between the parties has taken place; an amount of ₹4,00,000/- has been paid to the complainant in full and final satisfaction of the claims. The complainant has no objection for reduction of the sentence.

9. Considering the peculiar facts and circumstances of the case while affirming the conviction under Section 308 IPC, Sentence Order is modified and the appellant is sentenced to undergo the period already spent by him in this case. Of course, he shall pay the unpaid fine (if any) before the Trial Court within fifteen days.

10. The appeal stands disposed of in the above terms. Trial Court record along with the copy of this order be sent back forthwith.

DECEMBER 19, 2017/sa

**S.P.GARG
(JUDGE)**

भारतमेव जयते