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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of hearing and order: 29th May 2017

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**CRL.A. 448/2017
VIJAY VIRDI**

..... Appellant

Through: Mr. Jitender Tyagi, Ms. Ananya Roy,
Mr. Rajesh Pandey, Advocates

versus

STATE (GNCT OF DELHI)

..... Respondent

Through: Mr. Panna Lal Sharma, Additional
Public Prosecutor for the State

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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P.S. TEJI, J. (ORAL)

**Crl. M.A. No.8422/2017 (Directions) & Crl. M.(Bail) No.824/2017
(suspension of sentence)**

The appellant has filed the accompanying appeal (Crl. A. No.448/2017) under Section 374 of Cr.P.C. thereby challenging the judgment dated 13.04.2017 passed by learned Additional Sessions Judge, holding the appellant guilty for the offence under Section 299/304-II read with section 308 of IPC.

Brief facts of the prosecution case as enumerated in the impugned judgment are that on 28.11.2011 at about 4.45 AM at Gurudwara Chowk, in front of Gali No.1, Fruit Market, Ratia Marg,

Govindpuri, New Delhi, a quarrel had taken place between the accused persons and Sh. Shailesh Ray and Siddharth with fist and dandas at the tea stall of Radharaman and in the said quarrel Siddharth had sustained injuries on the right side of his forehead and his right eye and Shailesh Ray had died due to the injuries sustained by him in the incident at the hands of the accused persons. After completion of investigation and deposition of relevant witnesses, the appellant was held guilty with the offence with which he was charged and vide order dated 19.04.2017, the appellant was sentenced to undergo rigorous imprisonment for 4 years for the offence under Section 304 Part II IPC with fine of Rs.5 lacs as compensation to be given to the parents of the deceased and in the event of default of payment of compensation, he was sentenced to further undergo simple imprisonment for a period of one year. The appellant was also sentenced to undergo rigorous imprisonment for a period of 3 years for the offence under Section 308 of IPC and a fine of Rs.2 lakh was imposed to be paid to injured Siddharth Roy as compensation and in the event of default of payment of fine, the appellant was sentenced to further undergo simple imprisonment for one year.

On the last date of hearing, learned counsel appearing on behalf of the appellant submitted that he does not wish to challenge the impugned judgment dated 13.04.2017 whereby he was held guilty for the offence. Accordingly, the impugned judgment was ordered to be upheld.

However, by this application filed under Section 482 of Cr. P.C., the appellant seeks to argue on the order on sentence dated

19.04.2014 passed by learned Additional Sessions Judge. On the last date of hearing, this court after hearing submissions of the learned counsel for the appellant to the aforesaid extent, called for the nominal roll of the appellant from the jail superintendent. The same has now been received which shows that the appellant has already remained behind bars for 2 years, 11 months and 27 days.

After considering the facts of the present case and upon careful scrutiny of the impugned judgment and order on sentence passed by learned Additional Sessions Judge, without touching the merits of the order on sentence, this court finds that the incident in question is of 2011 and the appellant has been awarded substantive sentence of four years out of which, he has already remained behind bars for about three years, therefore in the peculiar facts of the present case, the order on sentence is modified to the extent that the substantive sentence imposed upon the appellant is reduced from four years to three and half years.

With aforesaid modification, the appeal filed by the appellant is disposed of.

P.S.TEJI, J

MAY 29, 2017
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