

\$~5

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

+ **CRL.A. 903/2016**

SANJAY KUMAR

..... Appellant

Through: Mr.Arun Sharma and Mr.Bishnu
Kumar, Advocates

versus

STATE & ANR.

..... Respondents

Through: Mr.Varun Goswami, APP for State
Mr.J.A.Chaudhary, and Mr.M.K.
Parvez, Advocates for R-2

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **09.03.2017**

CrL.A. 903/2016

1. The instant appeal has been filed under Section 372 Cr.P.C. by the complainant Sanjay Kumar praying for leave to appeal against the judgment dated 19th April, 2016 and the order on sentence dated 28th April, 2016 passed by the learned trial judge in SC Case No.41/15 arising out of FIR No.565/2013, registered at PS Mangolpuri, under Section 307 IPC. The appellant has sought enhancement of the sentence of the respondent having been passed for the lesser offence under Section 325 of the IPC and has also sought enhancement of the compensation.

2. Vide an order of sentence dated 28th April, 2016, the trial Court

had extended the benefit of Section of the Probation of Offenders Act to the respondent No.2.

3. During the pendency of the appeal, the appellant and the respondent No.2 were present before us.

4. The appellant is a worker in a workshop while the respondent No.2 is earning his livelihood by selling chappal on rehri. We are also informed by the respondent No.2 that he has deposited the amount of Rs.40,000/- as compensation. It is further submitted that the respondent No.2 had not assailed either his conviction or the sentence imposed upon him.

5. With the consent of both the parties, i.e., the appellant and the respondent No.2, they were referred for mediation before the Delhi High Court Mediation and Conciliation Centre by an order dated 27th October, 2016 and 7th February, 2017.

6. Today a settlement agreement dated 7th March, 2017 signed by the appellant, father of the appellant, respondent No.2, the brother of the respondent No.2, counsels for both the parties and the learned Mediator has been received from the Delhi High Court Mediation & Conciliation Centre. The same has been shown to the appellant as well as the respondent No.2. The settlement agreement is marked as Ex.C-1. The appellant affirms his signatures on all pages of the mark Ex.C-1 at points A-1 to A-4 and the signatures of his father at point E-1. The respondent No.2 has also verified his signatures at points B-1 to B-4. The respondent No.2 has also identified the signatures of his brother at Point D-1. The father of the appellant has also identified his signatures at point E-1 and the brother of the respondent

No.2 identifies his signatures at point D-1. The parties also confirmed that they had signed the settlement agreement Ex-C-1 voluntarily and with their free will and volition in the presence of the learned Mediator as well as their respective counsels and all their disputes and differences against each other have amicably been settled through the process of mediation. It is further submitted that both the parties accept the settlement and undertake that they shall remain bound by the terms of the settlement.

The undertaking given by the parties is accepted.

7. A perusal of Ex.C-1 would show that respondent No.2 has agreed to pay a total sum of Rs.1,10,000/- to the appellant in full & final settlement of all claims of all nature against the respondent No.2 in respect of Criminal appeal No. 903/2016 and FIR No.160/2017 as well as the Kalandara dated 25th January, 2017 under Section 107/151 Cr.P.C.. The respondent No.2 is required to pay a sum of Rs.35,000/- at the time of quashing of the FIR No. 160/2017 as to be paid whereas the appellant would withdraw the Criminal Appeal No.903/2016. The respondent No.2 has handed over an amount of Rs.35,000/- in cash in Court today which has been accepted by the appellant in terms of clause 2 of the settlement agreement (Ex.C-1).

8. A prayer is made by the appellant as well as his counsel Sh. Arun Sharma, Advocate to withdraw the criminal appeal No.903/2016 in view of the settlement agreement (Ex.C-1) between the parties.

9. In view of the above, the present appeal is dismissed as withdrawn.

Crl. M.A. Nos. 15063/2016 & 18678/2016

In view of the orders passed in the appeal, these applications do not survive for consideration and are disposed of accordingly.

GITA MITTAL, J

ANU MALHOTRA, J

MARCH 09, 2017/sv