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

+ CRL.A. 666/2015 & CrI.M.(B) 376/2017 & 381/2017

KAPIL & ORS.

..... Appellants

Through: Mr. Vishal Raj Sehijpal &
Mr. Sunil Sagar, Advocates

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. G.M. Farooqui, Additional
Public Prosecutor for respondent-
State with SI Net Ram

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

02.06.2017

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In this appeal, three appellants are assailing their conviction and sentence for the offence under Section 308/34 of IPC and under Section 452 of IPC. Vide impugned order of 28th April, 2015, appellants have been awarded sentence of rigorous imprisonment of three years with fine of ₹10,000/- for the offence under Section 452 IPC. They are further sentenced to undergo rigorous imprisonment of four years with fine of ₹15,000/- for the offence under Section 308/34 IPC. In default of payment of fine, appellants are directed by trial court to undergo simple imprisonment of three and four months' respectively for both the offences. All above sentences have been directed to run concurrently.

At the outset, counsel for appellants draws the attention of this Court to the Nominal Roll of 11th February, 2017 of appellants to point

out that their unexpired sentence is of one year, one month and three days and submits that appellants have their families to support and so, a lenient view on the point of sentence be taken.

Learned Additional Public Prosecutor for respondent-State informs that no minimum sentence is provided for the offences in question but the sentence awarded to appellants is adequate.

Upon hearing and on perusal of impugned judgment, this Court finds that conviction of appellants is justified but the order on sentence needs to be interfered with in view of Nominal Roll of appellants. I am of the considered opinion that facts and circumstances of this case warrant that the substantive sentence awarded to appellants deserves to be reduced to the period already undergone by them while maintaining the sentence of fine and the sentence awarded in default of fine. Accordingly, the substantive sentence awarded to appellants is reduced to the period already undergone by them, while the sentence of fine is maintained. The appellants shall get the benefit of this order subject to payment of fine, failing which they shall undergo the sentence awarded in default of payment of fine.

With aforesaid modification in the impugned order, this appeal and applications are disposed of.

A copy of this order be sent to the concerned Jail Superintendent for compliance.

(SUNIL GAUR)
JUDGE

JUNE 02, 2017

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