

\$~R-22B

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.A. 95/2011
DHARAMPAL SINGH

..... Appellant

Through Mr. S.S. Haider, Adv

versus

STATE

..... Respondent

Through Mr. Amit Ahlawat, APP for the State.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **22.01.2018**

The appellant has filed the present appeal against the judgment and order of sentence dated 24.11.2010 & 25.11.2010 wherein the appellant (Dharampal Singh) has been convicted under Section 323 read with Section 34 of the IPC. He had been sentenced to undergo the period of sentence already undergone by them (one month as an under-trial) and to pay a fine of ₹5,000/-; in default of payment of fine, to undergo SI for a period of five months.

On an earlier date, this Court had noted that the appellant has completed his sentence.

Learned APP for the State points out that the appeal has now become infructuous.

Learned counsel for the appellant submits that he being an ex-employee of CRPF has lost all benefits because of the conviction

which he has suffered. PW-1 was not a reliable witness. Her testimony clearly shows that the present appellant had reached the spot after the incident was over; the conviction qua the present appellant is unfounded. The argument of the appellant is based on the version of PW-1.

Record shows that the co-convict Khem Chand had filed Crl. Appeal No.1414/2010. Khem Chand had been convicted under Sections 302/308/452/323 read with Section 34 of the IPC. His appeal was dismissed. A large part of the judgment is based on the submissions made qua the credibility of PW-1 namely Veermati. The co-ordinate Bench had examined in detail the testimony of Veermati which had been examined on various grounds including the ground that her testimony has suffered from improvements; she had also been declared a hostile witness by the public prosecutor and had been cross-examined; she was at an advanced stage of pregnancy, for all the aforementioned reasons, her testimony should be dis-believed. The Co-ordinate Bench in Crl. Appeal No.1414/2010 had examined all these submissions and given a detailed judgment. Various aspects of law had been discussed. Her testimony was examined in the light of the legal proposition and the factual scenario. The Co-ordinate Bench was of the view that the entire incident as revealed by PW-1 stood proved. The role of other witnesses namely PW-2, PW-3, PW-5, PW-6 & PW-8 was also discussed. It would be relevant to state that although the appellant has not argued qua the testimony of the said witnesses yet the testimony of these witnesses was also examined in CRL.A. 95/2011

detail and all of them were found to be credible witnesses. In para 42 of the said judgment, the Court had returned a finding that from the testimony of PW-1 which finds corroboration from the other witnesses, it was established that the present appellant (Dharampal Singh) had uttered words of extortion; simple injuries were inflicted on the victims (PW-5 & PW-8). The Trial Court had returned a finding that the conviction of the appellant is a conviction under Section 323 read with Section 34 of the IPC. Their MLCs/medical record had also been examined.

This Court is not sitting in review over the judgment of the Co-ordinate Bench of this Court. The testimony of the witnesses having been found to be credible pursuant to which the appeal of the co-convict Khem Chand has been dismissed, the same testimony cannot now be re-examined. Even otherwise, the testimony of PW-1 is corroborated by the version of PW-5 & PW-6 (who had received multiple injuries) as also their medical record. The conviction of the appellant under Section 323 read with Section 34 of the IPC suffers from no infirmity.

Appeal is without any merit. Dismissed.

INDERMEET KAUR, J

JANUARY 22, 2018

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