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

% *Date of Decision : April 24, 2018*

+ **CRL.A. 1034/2016**

MUSHTAK AHMED

..... Appellant

Represented by: Mr.Pawan Kumar Mittal, Advocate

versus

STATE

..... Respondent

Represented by: Mr.Amit Gupta, APP for the State
with SI Sunil Kumar, PS Govind Puri

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (Oral)

Crl.M.A.No.14399/2017

By this application, the appellant seeks to place on record the compromise/settlement between the appellant and the complainant along with their affidavits.

The same are taken on record.

Application is disposed of.

Crl.A.No.1034/2016

1. Appellant, Mushtak Ahmed has been convicted for the offence punishable under Section 326 IPC in case FIR No.159/2013 registered at PS Govind Puri on the complaint of Constable Mahender who had apprehended the appellant red handed at the spot giving knife injuries to his nephew Mobin Sidduqui. Later statement of Mobin Sidduqui was also recorded. Mobin Sidduqui appeared in the witness box as PW-1 and deposed that he

was working as a hawker in the area of Okhla Mandi and used to sell clothes. Mushtak Ahmed was also operating in the same area selling the clothes. Mushtak Ahmed threatened Mobin Siddiqui not to sell clothes in the area of Okhla Mandi else he would kill him. On 14th March, 2013, at about 1:30/2:00 PM, while Mobin Siddiqui was sitting in Gali No.RZ-2, TKD Extension, Mushtak Ahmed came there with a knife and caught hold of the collar of Mobin Siddiqui and uttered the words ‘ bik gaya tera kapda’ and thereafter hit him with the knife. Mobin Siddiqui caught hold of the knife resulting cut on his right palm which started bleeding profusely. Mushtak Ahmed snatched the knife and hit Mobin Siddiqui with a knife on his left hand wrist and the fourth time, he attacked Mobin Siddiqui on his face. As per the MLC besides small cut marks, two major injuries were noted i.e. a deep cut wound on the right hand both dorsal and palmar aspect and a deep cut wound on the face were noted. The first injury was opined to be grievous in nature. Mushtak Ahmed was apprehended at the spot with the blood stained knife, the knife which was seized was sent for serological examination and the blood detected on the said knife tallied with the blood of the injured being of ‘O’ Group.

2. Considering the overwhelming evidence on record in the form of deposition of Mobin Siddiqui and HC Mahender Singh (PW-4) who was on patrolling duty in the area at the relevant time and when he saw Mushtak Ahmed giving beating and knife blows to Mobin Siddiqui caught him with the help of the public, this Court finds no error in the impugned judgment dated 29th August, 2016 convicting him for offences punishable under Section 326 IPC.

3. Mobin Siddiqui is present in Court and is identified by the

Investigating Officer, SI Sunil Kumar who states that the appellant Mushtak Ahmed is his maternal uncle and had inflicted him stab wounds in a rage of anger and thus he does not want to pursue the above noted proceedings qua him.

4. During the pendency of the present appeal, Mushtak Ahmed and the victim Mobin Siddiqui have entered into a settlement being in relation as maternal uncle and nephew. Though the offence punishable under Section 325 IPC i.e. causing grievous hurt is compoundable, however an offence punishable under Section 326 IPC causing grievous hurt with dangerous weapon as in the present case with knife is not compoundable. But considering the fact that the parties are related and have settled the matter and the appellant has undergone nearly half the sentence i.e. 1 year and 6 months with remission out of the three years rigorous imprisonment awarded to him and the fine amount has already been paid, this Court reduces the sentence of Mushtak Ahmed to the period already undergone.

5. Superintendent, Central Jail No.13, Mandoli, Delhi is directed to release Mushtak Ahmed who is in judicial custody forthwith if not required in any other case.

6. Appeal is disposed of.

(MUKTA GUPTA)
JUDGE

APRIL 24, 2018
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