

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

Date of Order: December 21, 2018

+ **CRL.REV.PET.1183/18 & CrI.M.A.50747/18, CrI.M(B)2002/18**

NAZIM Petitioner

Through: Mr. Humza Islam, Mr. Khalid
Akhtar and Mohammad Shadam,
Advocates

versus

STATE Respondent

Through: Mr. M.P.Singh, Additional Public
Prosecutor for respondent-State

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Petitioner alongwith his two co-accused was tried for the offence under Section 325/34 of IPC in FIR No. 270/2008, registered at P.S.Jamia Nagar, Delhi. After trial, petitioner alongwith co-accused was convicted for the offence under Section 323/325/34 of IPC and sentenced to Simple Imprisonment for three years with fine of ₹5,000/- each by the trial court vide order of 20th August, 2018.

2. Appellate Court vide impugned judgment of 10th December, 2018 has maintained the conviction of petitioner and his co-accused for the aforesaid offence, but has reduced their sentence from Simple Imprisonment for three years to Rigorous Imprisonment for one year with fine of ₹1,000/- each.

3. In this revision petition, learned counsel for petitioner has referred to the evidence of complainant party and other evidence on record, but I find that there is no basis to interfere with the concurrent finding of the courts below regarding conviction of petitioner for the offence under Section 325/34 of IPC.

4. On the aspect of sentence, learned counsel for petitioner submits that petitioner was a teenager when this incident had taken place and that petitioner has faced the agony of trial for more than 10 years and has no previous conviction to his discredit. It is further submitted on behalf of petitioner that petitioner is the sole bread-earner of his family. It is also stated that in this case, petitioner is in custody since 10th December, 2018.

5. Upon hearing and on perusal of impugned judgment and the material on record, I find that the appellate court ought to have considered petitioner's case for grant of probation in view of the fact that petitioner is not a previous offender.

6. Considering the fact that petitioner was a teenager on the day of the incident and has faced the agony of trial for more than 10 years and is not a previous convict and is said to be the sole bread-earner of his family, it is deemed appropriate to modify the impugned judgment on the sentence aspect. Accordingly, this petition and the applications are disposed of while setting aside the sentence of Rigorous Imprisonment for one year with fine of ₹1,000/-, with direction that petitioner be released forthwith if not wanted in any other case. Petitioner is extended the benefit of probation. Subject to petitioner furnishing probation bond in the sum of ₹10,000/- with one surety of the like amount to the satisfaction of the trial court within four weeks from today, trial court is directed to ensure that

probation bonds are accepted by the concerned Probation Officer, who shall monitor the conduct of petitioner and submit a report to the trial court after completion of probation period.

7. It is made clear that in case petitioner fails to complete the probation for a period of one year, then the sentence awarded to petitioner by the appellate court shall stand revived.

8. The concerned trial court as well as the Jail Superintendent be apprised of this order forthwith, to ensure its compliance.

Copy of this order be given *dasti* under signatures of the Court Master to learned counsel for petitioner.

(SUNIL GAUR)
JUDGE

DECEMBER 21, 2018

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