

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

Date of Order: January 07, 2019

+ CRL.A. 222/2018 & CrI.M.B. 1593/2018

SANJAY

..... Appellant

Through: Mr. Jose Abraham, Mr. B.
Mathews and Mr. Sarah Shaji,
Advocates

Versus

THE STATE

..... Respondent

Through: Ms. Aashaa Tiwari, Additional
Public Prosecutor for State with SI
Mohit Malik, P.S. Prasad Nagar,
Delhi

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned judgment of 12th September, 2017 holds appellant guilty of offence under Section 308 (Part-II) of IPC and vide order of 13th September, 2017 appellant has been sentenced to undergo rigorous imprisonment for a period of 3 ½ years with a fine of ₹10,000/- with default clause. By way of this appeal appellant seeks setting aside of conviction and sentenced awarded by the trial court.

2. With the consent of both the sides, this appeal is taken up for final hearing. The facts already noticed in the impugned judgment of 12th September, 2017 are not required to be recapitulated. Upon hearing, I find that findings of the trial court are borne out from the evidence on record.

3. On the quantum of sentence, learned counsel for the appellant submits that appellant is not a previous convict and was aged about 22 years when the incident had taken place and that appellant has already remained behind bars for about 2 ½ years and so, the sentence awarded to appellant deserves to be reduced to the period already undergone by him.

4. Upon perusal of order on sentence as well as nominal roll of appellant, I find it to be a fit case to reduce the substantive sentence of appellant from 3 ½ years to 2 ½ years while maintaining the sentence of fine and the period in default thereof. It is so done as no minimum sentence is prescribed for offence committed by appellant and in the peculiarity of this case, this order shall not have any precedential value.

5. While affirming the conviction of the appellant, the impugned order on sentence is accordingly modified. Appellant be apprised of this order forthwith through the concerned Jail superintendent.

6. This appeal and the application are accordingly disposed of.

(SUNIL GAUR)
JUDGE

JANUARY 07, 2019
p'ma