

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: February 05, 2019

+ CRL.A. 863/2018 and CRL.M.(BAIL) 1327/2018

RAJESH SAHNI

.....Appellant

Through: Mr. Raman Kumar and Mr.
Birendra Kumar, Advocates

Versus

STATE (NCT DELHI)

.....Respondent

Through: Ms. Neelam Sharma, Additional
Public Prosecutor for State with SI
S.K. Jha

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR
ORDER
(ORAL)

Vide impugned judgment of 20th July, 2018, appellant has been held guilty for the offences under Sections 186/353/333 of IPC and vide impugned order of 23rd July, 2018 appellant has been sentenced to rigorous imprisonment for one month and fine of ₹1,000/- with default clause for offence under Section 186 of IPC and for the offence under Section 353 of IPC, appellant has been sentenced to rigorous imprisonment for one year and fine of ₹5,000/- with default clause.

For the offence under Section 333 of IPC, appellant has been further sentenced to rigorous imprisonment for five years and fine of ₹20,000/- with default clause. All the sentences are to run concurrently.

The facts as noticed by the trial court in the impugned judgment are as under:-

“On 22.01.2011 at about 8:15 a.m., PW-1, an employee of Delhi Transport Corporation (DTC) was driving the DTC bus no. DL 1PC 9616 (the bus) on the route no. 879. While returning from Janakpuri to Shahbad Dairy, when the bus reached at Madhuban Chowk, PW1 blew the horn to turn the bus towards the left side towards Rithala as Gramin Sewa tempos were standing but the same did not move. That time, the bus touched one Gramin Sewa tempo no. DL 2W 3742 (the said tempo) of which the accused no. 1 was the driver and the accused no. 2 was the conductor. On that, both the accused got agitated and inflicted injuries upon PW-1”.

On the basis of the evidence led, trial court has convicted and sentenced appellant as noticed hereinabove.

Learned counsel for appellant assails the impugned judgment and the order on the ground that prosecution has failed to prove its case beyond reasonable doubt against the appellant no.2. It is submitted that trial court has failed to consider that appellant was also injured in this incident and appellant was not having any iron rod with him and as per the prosecution, the iron rod was brought by co-accused Pawan and that the incident in question has not taken place as depicted by the prosecution and so benefit of doubt ought to be given to appellant.

On the other hand, learned Additional Public Prosecutor for State supports the impugned judgment and the order and submits that conviction and sentence awarded to appellant is justified.

Upon hearing and on perusal of impugned judgment, order and the evidence on record, I find that the conviction of appellant for the aforesaid offences borne out from the evidence on record. On the quantum

of sentence, I find that the grievous injury sustained by injured was fracture on the second metacarpal bone in right hand and considering the fact that appellant is not a previous convict and has wife and three minor children to support, I find that the substantive sentence awarded to appellant needs to be modified.

Considering that this is a case of road rage in which both sides were injured, it is deemed appropriate to reduce the substantive sentence awarded to appellant from five years to one year for the offence under Section 333 of IPC while maintaining the sentence of fine. It is so done, as appellant is not a previous convict and his conduct in jail is satisfactory as per the nominal roll on record. However, sentence awarded to appellant for other offences is found to be appropriate. This appeal is partly allowed to the extent indicated.

The appeal and application are accordingly disposed of as such.

FEBRUARY 05, 2019
p'ma

(SUNIL GAUR)
JUDGE