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

+ **CRL.A. 488/2016**

WASIM

..... Appellant

Through Mr Harsh Prabhakar, Advocate
(DHCLSC)

versus

STATE

..... Respondent

Through Ms Meenakshi Chauhan, APP for State.
SI Shailendra, P.S. Ghazipur present.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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17.01.2020

1. The appellant has filed the present appeal impugning a judgment dated 03.03.2016 passed by the ASJ-03(east), Karkardooma Courts, Delhi whereby he was convicted for the offence punishable under Section 307 of the Indian Penal Code, 1860 (IPC). The appellant was sentenced to undergo ten years of rigorous imprisonment and was imposed a fine of ₹50,000/- and in default of payment of such fine, to undergo further rigorous imprisonment for a period of one year.

2. The appellant was prosecuted pursuant to registration of an FIR (FIR bearing no. 240/2013 under Section 307 of the IPC registered with PS Gazipur). It was alleged that the petitioner had attacked the prosecutrix (named withheld to avoid any ignominy) as she had not acceded to his

pressure to marry her and her marriage has been fixed with another boy. She alleged that she was sweeping her house on 06.06.2013 and no one was present in the house. The petitioner had come to the house at about 11:00 am and had quarrelled with her for not agreeing to marry him. He had, thereafter, attacked her with an iron chopper and had delivered two blows on her head. She had raised an alarm and the appellant had left the spot leaving behind the weapon.

3. The prosecutrix was medically examined and the evidence indicates that she had received an insertion incised wound on her head extending right up to the right side of her nose. The said wound measured 10cms x 1cm. She was also inflicted an incised wound on vertex and back of the head measuring 6cms x 0.5 cm. The injuries inflicted on the prosecutrix were grievous. During the investigation, the iron chopper used to commit the offence was recovered.

4. The learned counsel appearing for the appellant fairly concedes that the evidence obtaining in this case clearly establishes that the appellant had committed the offence for which he was charged. He has restricted his arguments to seek reduction in the sentence awarded to the appellant, as awarded to the appellant by the order on sentence dated 14.06.2016.

5. The nominal roll furnished by the authorities indicates that as on 28.12.2019, the appellant has undergone the custody of six years, four months and fifteen days. During the said period, he has also earned remission of one year, three months and twenty-two days. As of that date, the appellant is required to serve for two years, three months and twenty-three days. The nominal roll also indicates that his conduct in the jail has

been satisfactory.

6. There is little doubt that the offence committed by the appellant is a grave offence. In terms of Section 307 of the IPC, the offender is liable to be sentenced to life imprisonment or imprisonment of either description for a term that may extend to ten years. Considering the consequences which the injury inflicted by the appellant would have had on the life of the victim; the sentence awarded by the Trial Court cannot be stated to be disproportionate. It is commensurate with the offence for which the petitioner has been convicted.

7. Having stated the above, this Court is of the view that there are certain mitigating factors which warrant consideration. The first and foremost factor is the age of the appellant. The current nominal roll indicates the appellant's age to be twenty-six years. Thus, at the time of committing of the offence, the petitioner would be under twenty years of age. The appellant has no prior criminal involvement.

8. In addition to the above mitigating circumstances, the appellant is also suffering from varicose veins and the medical report enclosed along with the nominal roll indicates that he was operated for the same in the month of February, 2019. There has been a recurrence of the said condition and for which he is undergoing treatment at the All India Institute of Medical Sciences.

9. Considering the mitigating circumstances, this Court is of the view that the sentence awarded to the petitioner ought be reduced to eight and a half years. This would entail the appellant undergoing actual custody for about seven years. It is so directed.

10. It is clarified that this Court is not interfering with the fine imposed on the appellant and he would be required to pay a fine of ₹50,000/- and in default of the same, to serve rigorous imprisonment for a further period of one year, as sentenced.

11. The appeal is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

JANUARY 17, 2020

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