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

Judgment pronounced on: 21.09.2022

+ CRL.A. 340/2021

POOJA

..... Appellant

Through: Ms. Anu Narula, Advocate.

versus

THE STATE

..... Respondent

Through: Mr. Raj Kumar, APP with SI Neeraj,
PS Preet Vihar.

CORAM:

HON'BLE MR. JUSTICE TALWANT SINGH

TALWANT SINGH, J.:

1. At the outset, learned counsel appearing for the appellant submits that the appellant has almost completed 8 years of incarceration in a case where she herself was the victim and it was the deceased, her own husband who had attacked her at the first instance and she had only reacted in her self-defense.
2. Learned counsel for the appellant submits that she is confining her arguments only to the quantum of sentence. In view of this, the judgement dated 28.07.2020 convicting the appellant under Section 304 -I IPC is upheld.
3. As far as the order on sentence is concerned, vide order dated 28.07.2020, the appellant was awarded Rigorous Imprisonment for a period of 10 years and she was ordered to pay a fine of Rs.10,000/- under Section

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304-I IPC and in default of payment of fine to further undergo Simple Imprisonment for one month.

4. Learned counsel for the appellant has drawn my attention to para 45 of the judgement, which is reproduced hereunder and she has submitted that this paragraph summarizes her entire case:

“It is clear from these discussions that deceased had launched a sudden and fierce assault on the accused in which she suffered significant injuries on her vital parts. Thus, it seems that on being assaulted badly, the accused lost her cool and she assaulted back the deceased in a fit of rage. It is further clear that accused assaulted the deceased with the same iron rod with which she was assaulted by the deceased. Thus, it is clear that after the hot discussion took place between them, firstly deceased had assaulted the accused and at same and with the same object, the accused assaulted the deceased. In view of these discussions, it is held that the accused had assaulted the deceased in a sudden quarrel and the assault made by accused was not premeditated.”

5. In view of the summary of entire discussion mentioned in para 45, learned counsel for the appellant prays that this Court may exercise its discretion in favor of the appellant and reduce her sentence to the period already undergone.

6. On the other hand, learned APP for State has submitted that the learned Trial Court has rightly awarded the Rigorous Imprisonment of 10 years and a fine of Rs.10,000/- as the appellant had exceeded her right of self-defense.

7. After considering the rival contentions and keeping in view the fact that the appellant was not the aggressor, rather, when the incident started after some hot discussions, she herself was the victim and the iron rod, which was used by her deceased/husband to attack her, is the weapon of offence in the present case, where it appears that she, had no other option

but to save her life and in the process, she had caused certain injuries to her husband. Although 7 injuries on the body of the deceased have been mentioned but learned counsel for the appellant submits that out of them, only 5 are the main injuries and the other 2 are only lacerated wound and bruises.

8. The appellant is in jail for the last about 8 years. She is suffering from a kidney ailment and she has no one else to look after her as when she was granted the suspension of sentence, she could not come out because of lack of surety.

8.1. Keeping these facts in view, I am inclined to reduce her sentence to the period already undergone. Keeping in view the fact that out of 10 years imprisonment awarded to her, she has already completed about 8 years. The sentence is accordingly reduced to the period already undergone.

9. It has been submitted by learned counsel for the appellant that the appellant has no money to deposit the said fine and there is no one in her family who can do so. The amount of fine is accordingly reduced to Rs.3,000/- and in default of deposit of fine, the appellant shall undergo a Simple Imprisonment for a period of 10 days.

10. The appeal is disposed of in these terms.

11. Copy of this order be sent to the concerned Jail Superintendent.

**TALWANT SINGH
(JUDGE)**

SEPTEMBER 21, 2022/pa

Click here to check corrigendum, if any