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

% **Decided on: 02.08.2023**

+ **CRL.A. NO. 183/2009**

NIRMAL SINGH

..... Petitioner

Through: Mr. Mohit Mathur, Sr.
Advocate with Mr. Mayank
Sharma, Advocate

versus

THE STATE

..... Respondent

Through: Mr. Narsh Kumar Chahar,
APP for State with W/Si
Arpana, PS Punjabi Bagh

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGEMENT

SWARANA KANTA SHARMA, J. (ORAL)

1. The present appeal has been filed on behalf of the appellant under Section 374 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') assailing the order dated 20.09.2009 and order of sentence dated 25.02.2009 passed by the learned ASJ, Rohini, Delhi in Case No. CS/193/2006 titled as '*State vs Nirmal Singh*' arising out of FIR bearing no. 321/2005 registered at Police Station Punjabi Bagh, Delhi for offence punishable under Section 306 Indian Penal Code, 1860 ('IPC').



2. Briefly stated, facts of the case are that the marriage between the appellant and the deceased was solemnized on 06.02.2003 and one boy was born out of the marriage. The deceased had alleged to her relatives that petitioner had started harassing her after six months of marriage. Thereafter, on 25.04.2005, appellant had informed the relatives of deceased that she had committed suicide. The case was registered upon the statement of the father of deceased which was recorded by the Sub-Divisional Magistrate. As per the order dated 20.02.2009, after completion of investigation, charge sheet was filed. The learned Trial Court had framed charges under Sections 498A/306 IPC *vide* order dated 20.02.2009. Thereafter, the learned Trial Court had granted bail to the appellant *vide* order dated 17.08.2005. Further, the learned Trial Court had convicted appellant under Section 309 IPC and had acquitted him from offence punishable under Section 498A IPC *vide* order dated 20.01.2009. Further again, the learned Trial Court *vide* order dated 25.02.2009 convicted appellant for offence punishable under Section 306 IPC and sentenced him to undergo four years of rigorous imprisonment and to pay fine of Rs. 10,000/-.

3. Learned senior counsel for the appellant states that the appellant does not propose to assail the impugned judgment on merits and would like to confine the submissions to the point of sentence alone. It is stated that since the incident in the present case is 14 years old, the sentence of the appellant be reduced to the period already undergone by him.

4. Learned APP for state has argued to the contrary.



5. This Court has heard contentions raised on behalf of both sides and has perused the material on record.

6. In the present case, the incident in question had taken place on 24.04.2005 and appellant was convicted by the learned Trial Court on 25.09.2009 for offence punishable under Section 306 IPC whereby he was sentenced to a total period of rigorous imprisonment of 4 years, along with payment of fine.

7. As per nominal roll available on record as well as stated by learned counsel for appellant and the investigating officer before this Court, there is no previous involvement of the petitioner in any other case. The overall jail conduct of the petitioner is reported to be satisfactory. It is also stated that the petitioner had not misused the liberty of bail granted to him either during the period of trial or during the pendency of his appeal against conviction. The investigating officer also states that the petitioner is not involved in any other criminal case.

8. As on date, the petitioner has remained in judicial custody for about 6 months as per the nominal roll. The offence pertains to the year 2009, and the petitioner has already faced trial for almost 14 years. Moreover, the appellant has taken good care of the then seven-months old boy born out of the marriage after the death of the deceased and the boy has now completed his 12th standard.

9. Considering the overall facts and circumstances of the case, this Court is of the opinion that no useful purpose will be served by requiring the petitioner to undergo the remaining portion of sentence



at this belated stage, when the appellant has faced trial for almost 14 years.

10. Thus, in view of the aforementioned circumstances, this Court though not interfering with the conviction of the appellant, reduces the sentence of imprisonment to the period already undergone by the appellant.

11. Subject to the aforesaid direction, the present appeal stands disposed of along with pending applications.

12. Bail bond stands cancelled and the surety stands discharged.

13. A copy of this judgment be forwarded to the learned Trial Court and concerned Jail Superintendent for necessary information.

14. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JULY 2, 2023/dk

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