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

Date of Decision: 01.03.2023

+ CRL.A. 567/2009

AJEET

..... Appellant

Through: Mr. S.C. Buttan, Advocate with
appellant.

Versus

STATE

..... Respondent

Through: Mr. Satish Kumar, APP for the
State with SI Bijender Singh,
P.S. Hauz Qazi.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. (ORAL)

1. The present appeal under Section 374 read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed by appellant against the judgment dated 02.07.2009 and order on sentence dated 08.07.2009 passed by learned Additional Sessions Judge - 03, Central, Tis Hazari Courts, Delhi in case no. 37/07 being FIR bearing no. 286/2006, registered at Police Station Hauz Qazi, for committing offences punishable under Sections 392/394/34 of the Indian Penal Code, 1860 ('IPC').

2. The present appeal was admitted *vide* order dated 06.08.2009 and the sentence of appellant was suspended *vide* order dated 29.10.2009 by this Court.

3. The facts leading to the filing of the present appeal by convict Ajeet are that on 13.10.2006 vide DD No.48-B Ex.PW2/A information was received at PS Hauz Qazi at 11.15PM about a quarrel taking place at House No.855, Gali Beri Wali, Kucha Pati Ram, Bazaar Sita Ram. SI Sombir Singh alongwith HC Shiv Ram reached the spot where he found number of public persons gathered. The complainant Sachin Gupta (PW-1) handed over Raj Kumar alongwith one knife claiming that knife was recovered by the public persons from the hand of Raj Kumar. Sachin Gupta made statement Ex.PW1/A to the effect that on that day he alongwith his cousin Dheeraj Nath Gupta returned from his workplace and got down at Ramlila Ground where the Wagon-R in which they were travelling, was parked. Dheeraj picked his scooter from there and dropped him outside his gali. At 10.30 PM, while he was walking towards his house and reached near his house, he was surrounded by Jitesh @ Tie, Ajeet, Raj Kumar and one other person, whom he could identify. He knew these persons as they were residing in the adjoining gali. They asked for some money and on his refusal, they decided to teach him a lesson for refusal.

4. At the behest of Jitesh @ Tie, Raj Kumar and his other companion started beating him with kicks and blows. Jitesh @ Tie snatched his chain with pendant. Appellant Ajeet snatched his bracelet. As per the complainant Sachin Gupta, when he was trying to flee from there, appellant Raj Kumar took out a knife and attacked on

his right hand. He suffered injury on his right hand little finger. In the meantime, public persons gathered there and managed to overpower Raj Kumar alongwith knife and started beating him. Jitesh @ Tie, Ajeet and their associate managed to flee from there. Somebody informed the police and after arrival of the police, he handed over Raj Kumar along with knife.

5. The learned Trial Court, vide judgment dated 02.07.2009 convicted the appellant for offences punishable under Section 392/394/34 of IPC and sentenced him to undergo rigorous imprisonment for five years and fine of Rs. 5,000/-, and in default of payment of fine, to undergo simple imprisonment for six months.

6. At the outset, learned counsel for appellant, upon instructions, submits that the appellant does not propose to assail the impugned judgment on merits and would like to confine the submissions in this appeal, to the point of sentence alone. It is stated that since the incident in the present case is 16 years old, the sentence of the appellant be reduced to the period already undergone by him.

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

8. This Court has heard the parties and perused the material on record.

9. In the present case, the incident in question had taken place on 13.10.2006 and appellant was convicted by the learned Trial Court on 02.07.2009, whereby he was sentenced to undergo rigorous imprisonment for a period of five years and pay a fine of Rs 5,000/-. It is stated by learned counsel for appellant that fine imposed upon the appellant has already been deposited by him. There is no previous

involvement of the appellant and his conduct was reported to be satisfactory in jail. It is also admitted that the appellant had not misused the liberty of bail granted to him either during the period of trial or during the pendency of the present appeal.

10. The nominal roll of the appellant has been received. As per the nominal roll, the appellant has remained in judicial custody for about 1 year and 26 days. The offence pertains to the year 2006. The appellant has faced the trial for almost 16-17 years. The investigating officer states that the appellant is not involved in any other criminal case. It is also stated that after he was convicted and sentenced in the present case, he has contributed positively to the society.

11. Appellant has three school going children and he is earning by honest means and is not involved in any criminal case after this case which is before this court.

12. 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 appellant to undergo the remaining portion of sentence at this belated stage, when the appellant has faced trial for almost 17 years, and is today, earning for himself and looking after his family.

13. 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.

14. Accordingly, the present appeal stands disposed of in above terms.

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

16. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MARCH 01, 2023/kss

