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

+ CRL.A. 566/2003

BRAHM PAL

..... Appellant

Through: Mr. Harsh Sharma, Advocate
(through VC).
Appellant in person

versus

STATE

..... Respondent

Through: Mr. Mukesh Kumar, APP for the
State with SI Deepak Dhanda, P.S.
Amar Colony.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

13.02.2024

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1. The present appeal under Section 374 of the Cr.PC. challenges the judgment of conviction dated 05.08.2003 and order on sentence dated 06.08.2003, passed by Sh. V. K. Jain, learned ASJ, New Delhi in FIR no. 417/1997 under Sections 307/34 of the IPC, registered at PS Srinivas Puri, whereby the appellant has been convicted for offences under Sections 307 of the IPC and has been sentenced to undergo rigorous imprisonment for 5 years alongwith fine of Rs. 5,000/- and in default, further simple imprisonment for 6 months.

2. Learned counsel appearing on behalf of the appellant, on instructions from the latter, who is present in court today, submits that appellant does not press the challenge in the present appeal with respect to the judgment of conviction dated 05.08.2003. However, it is prayed that the order on sentence dated 06.08.2003 may be modified and reduced to the extent of the



period undergone by the present appellant. Learned counsel appearing on behalf of the appellant submits that the appellant has a family comprising of 4 children and a daughter of marriageable age. It is submitted that he is the sole breadwinner in the family and the present FIR pertains to an incident of 1997. It is further submitted that the incident had arisen out of a dispute between the family of the present appellant and his neighbours.

3. Heard learned counsel for the parties and perused the record.

4. As per the nominal roll dated 27.01.2024 received by this Court, as on 25.01.2024, the appellant has undergone a sentence of 02 years 01 month and 05 days out of the 5 years awarded to him in the present case (the unexpired portion of his sentence is 2 years 10 months and 05 days). As per the nominal roll the conduct of the present appellant was satisfactory during the period of incarceration. It is further reflected that there is no other case in which the present appellant has been involved. The present FIR relates to an incident of 1997 and the appellant, as pointed out hereinabove, is the only breadwinner in his family to support.

5. The facts of the case are that the present appellant alongwith his family members, got involved in a fight with their neighbour. In totality of the facts and circumstances of the case, no useful purpose will be served by sending the present appellant to undergo further incarceration, in view of the mitigating factors, as pointed out hereinabove. In the interest of justice, the order on sentence dated 06.08.2003 is modified and reduced to the period of sentence already undergone by the appellant, as per the nominal roll dated 27.01.2024. However, the appellant is directed to pay the fine of Rs. 5,000/- imposed by the order on sentence dated 06.08.2003 before the Registrar General of this Court within a period of fifteen days from today.



6. The appeal is partly allowed and disposed of accordingly.
7. Pending application(s), if any, also stand disposed of.
8. Bail bonds furnished by the appellant stand discharged.
9. Copy of the order be sent to the concerned Jail Superintendent, for necessary information and compliance.
10. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

FEBRUARY 13, 2024/sn