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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ *Date of decision: 22.01.2024*

CRL.A. 146/2021

STATE OF NCT OF DELHI Appellant

Through: Ms. Manjeet Arya, APP for State

versus

TARUN KUMAR AND ORS Respondent

Through: Mr. Deepanshu Choithani, Mr.
Mayank Pachauri and Mr. Hasan
Zaidi, Advocates

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Appellant is State of NCT of Delhi. It has filed the present appeal under Section 377 Cr.P.C. on the ground of “inadequacy of sentence”.
2. Admittedly, all the three respondents faced trial for commission of offence under Section 307/34 IPC in FIR No. 763/2014 registered against them at PS Khyala.
3. As per allegations appearing in FIR, injured Ashish Pandey was admitted in Balaji Hospital. His statement was recorded. Police was also able to contact other eyewitnesses of the incident who also revealed the names of the alleged assailants. All the three accused persons were

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accordingly arrested and eventually charged for commission of offence under Section 307/34 IPC. They pleaded not guilty.

4. During evidence, prosecution examined injured as well as other eyewitness who supported the case of the prosecution.

5. We may also note that accused were already known to the injured and as per prosecution, after some verbal altercation, a scuffle took place and knife blow was given to said injured.

6. After analyzing the evidence, learned trial held all the three accused persons guilty for commission of offence under Section 307/34 IPC vide judgment dated 10.12.2019.

7. Arguments on sentence were heard on 17.12.2019 and keeping in mind the various mitigating circumstances and the period for which the convicts had already remained behind the bars, learned Trial Court, besides slapping them with monetary fine, sentenced them to the period already undergone by them.

8. We have carefully gone through the impugned order on sentence and cannot lose sight of one significant aspect. The injured, who was also having some criminal antecedents as he was in custody in some other case, filed an affidavit before the Court wherein he himself stated that he would have no objection if a lenient view is taken while awarding sentence to them.

9. Undoubtedly, the offence in question is a serious one.



10. Though, generally the quantum of sentence is a matter of discretion of Trial Court, this Court can always interfere if it is brought to the notice that such discretion has not been exercised judiciously. It is also accepted norm that Appellate Court should not interfere with quantum of sentence, except for very strong and compelling reasons as interference is required only where the sentence is “manifestly inadequate” and no justifiable reasons are given.

11. Undoubtedly, in the present case, the period, which the respondents, have already undergone during the trial is not very high. As per State, respondents Jaspreet, Tarun Kumar and Akashdeep remained behind the bars for 91 days, one year and five days and 90 days respectively during the trial. We may also note that said offence does not invite any minimum sentence either.

12. We, however, do not find any compelling reason to interfere with the sentence at the present juncture. Incident is of the year 2014 and nothing has been brought before us which may suggest that after the above incident, convicts/respondents have indulged in any criminal activity. Secondly, the injured himself had exonerated them and he himself wanted that a lenient view be taken against them.

13. Of course, the offence in question is non-compoundable one but it is quite obvious to us that in view of the request of leniency coming from the victim, learned Trial Court let them off with the period already undergone by them as all the convicts were in their twenties.



14. We thus do not find any manifest error in such approach of the learned Trial Court, particularly when the injured himself had exonerated the respondents.

15. Viewed thus, we do not find any merit in the appeal and decline to interfere with the quantum of sentence as imposed by the learned Trial Court.

16. Resultantly, the appeal is dismissed.

(SURESH KUMAR KAIT)
JUDGE

(MANOJ JAIN)
JUDGE

JANUARY 22, 2024/dr