



2024:DHC:7347



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

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Reserved on: 03.09.2024***Pronounced on: 23.09.2024***+ **CRL.A. 223/2009**

NARESH KUMAR SOLANKI

.....Appellant

Through: Mr. Rakesh Chahar and Ms.
Smritee Relan, Advocates

Versus

STATE

.....Respondent

Through: Mr. Satish Kumar, APP for the
State**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The instant appeal under Section 374 read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the appellant against the judgment and order on sentence dated 10.02.2009 and 02.03.2009 respectively, passed by the learned Additional Sessions Judge, Dwarka Courts, Delhi ('learned Trial Court'), in SC No. 49/2008, arising out of FIR No. 600/2002, P.S. Najafgarh, Delhi.

2. Briefly stated, the case of the prosecution is that on



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21.10.2002, at around 7:00 a.m., the complainant, Jodh Singh, along with his son Pankaj, was collecting leaves for his goats from a tree in front of the Air Force Camp on Nangloi Road. At approximately 7:20 a.m., the accused, Naresh Solanki, had approached from the Baprola side in his grey Santro car. On seeing the complainant and his son, he had stopped momentarily before driving away. As the complainant and his son had started heading back home after collecting leaves, Naresh had returned from the wrong side of the road and had attempted to speak to the complainant. The complainant, however, had refused to engage and had continued walking. When he had reached the front of R.K. Auto Works on Nangloi Road, Naresh had hit him from behind with his Santro car. As a result, the complainant's body had been thrown into the air and had landed in a soft, muddy area. Naresh had then fled the spot in his car, preventing the complainant from noting down the vehicle's number. The police was informed about the incident, and upon receiving DD no. 10A, SI Rajesh, along with Constable Raj Kumar, had arrived at the scene but had found that the injured person had already been taken to Rao Tula Ram Memorial Hospital. Based on this information, the police officials had proceeded to the hospital, where they had recorded the injured's statement after the doctor had declared him fit to give a statement. An MLC had been obtained, and the case had been registered by the Investigating Officer through Constable Raj Kumar *vide* FIR No. 600/2002, under Section 440 of Indian Penal Code,



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1860 ('IPC'). After completing the investigation, a charge-sheet under Sections 308 and 440 of IPC was filed against Naresh Solanki. Charges were framed against the appellant under Section 307 of IPC.

3. On the basis of the evidence and material collected during investigation, the learned Trial Court *vide* impugned judgment dated 10.02.2009 had convicted the appellant under Section 325 of IPC and *vide* order dated 02.03.2009, the learned Trial Court had sentenced him to undergo rigorous imprisonment for a period of four years along with payment of fine of Rs.25,000/-, and in default of payment of fine, to further undergo simple imprisonment for a period of six months.

4. Aggrieved by the aforesaid impugned orders, the present appeal had been preferred on behalf of the appellant. This appeal was admitted *vide* order dated 27.03.2009, and the sentence of the appellant was suspended by this Court *vide* order dated 31.03.2009.

5. Learned counsel appearing on behalf of the appellant submits, on instructions, that the appellant is not pressing the present appeal on its merits. It is further submitted that the appellant rather prays for leniency since the incident in question had taken place about 22 years back. It is stated that considering the sentence already undergone by the appellant, his sentence of imprisonment may be reduced to the period already undergone.

6. Learned APP for the State submits that he has no objection if the sentence of the appellant is reduced to the period already



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undergone by him, and the conviction is upheld.

7. This Court has heard arguments addressed on behalf of both the parties and has gone through the material placed on record.

8. This Court notes that the present case emanates from an FIR registered in the year 2002, pertaining to an incident dated 21.10.2002. Thus, the offence in question had taken place about 22 years ago. Further, it is also a matter of record that the present appeal is pending before this Court for the last 15 years i.e. since 2009. The appellant herein was aged about 39 years at the time of the incident, who today is more than 60 years of age. During arguments before this Court, it has come on record that in the last 22 years, the appellant has proven to be a law abiding citizen, supporting his family and earning an honest living. The material available on record also shows that from the year 2002 till date, his conduct has been good, and no other case has been registered against him.

9. Thus, considering the overall facts and circumstances of the case, and after going through the nominal roll of the appellant, which mentions that the appellant has already served sentence of rigorous imprisonment for more than four months out of the sentence awarded to him in the year 2009 and his conduct in the jail during the said period had been satisfactory, and the fact that the conviction is not being challenged, this Court is of the opinion that ends of justice would be met in case the sentence of imprisonment of the appellant is reduced to the period already undergone by him in relation to the



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present case.

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

11. Bail bonds stand cancelled and the sureties stand discharged.

12. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

SEPTEMBER 23, 2024/A