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

% **Date of Decision: 08.05.2024**

+ **CRL.A. 335/2009**

DHARAM PAL & ANR.

..... Appellants

Through: Mr. Rajbir Singh Sagar and
Mr. Rajiv Pratap Singh,
Advocates

versus

STATE

..... Respondent

Through: Mr. Naresh Kumar Chahar,
APP for the State with Mr.
Ripundamo Shahi, Mr. Adesh
Taneja, Ms. Neha Philemon,
Advocates and SI Abhishek
Gulani, P.S. Kalyanpuri

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. (ORAL)

1. By way of present Criminal Appeal, the appellants have challenged the impugned judgment dated 27.04.2009 and the order on sentence dated 29.04.2009 passed by learned Additional Sessions Judge, Karkardooma Courts, Delhi against the present appellants in



case arising out of FIR bearing no. 461/2007 for offences punishable under 308/506/34 of the Indian Penal Code, 1860, ('IPC') registered at Police Station Kalyanpuri, Delhi.

2. Briefly stated, the facts of the present case, as per the prosecution are that on 04.07.2007 at about 8:30 PM at Jhuggi no. 3-38-163, Block-8, Extra Block, Trilokpuri, Delhi, an altercation had taken place between the complainant and the accused, upon which accused persons had caused head injury to the husband of the complainant by throwing bricks and had also threatened to kill them. Upon the statement of complainant, the present FIR had been registered.

3. After investigation, chargesheet was filed against the accused persons, before the concerned Court. Accused persons were charged for offences punishable under Sections 308/506/34 of IPC.

4. By way of impugned judgment dated 27.04.2009 and order on sentence dated 29.04.2009, the learned Trial Court held the appellants guilty and sentenced them to rigorous imprisonment for a period of one year and fine of Rs. 5,000/- each, and in default of payment of fine, to undergo further rigorous imprisonment for a period of three months, for the offence punishable under Section 308 of IPC.

5. Learned counsel for appellants submits that the appellant no.1 has unfortunately passed away and the same has been verified by the investigating officer.

6. Learned counsel for the appellant, on the instructions from the appellant no. 2, states that the appellant no. 2 does not want to press the appeal on its merits and prays for leniency and alteration of



sentence since the offence was committed 17 years back. The appellant prays that leniency be accorded in sentence and the sentence already undergone by him may be treated as the sentence imposed upon him.

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

8. In the present case, the appellant no. 1 has already passed away, and vide order dated 10.10.2023, the proceedings against him were abated. The present appeal is pending for past 15 years before this Court. The appellant no. 2 was only 19 years of age at the time of the incident in question, which is of the year 2007.

9. The record shows that in the last 17 years, appellant no. 2 has proved to be a useful citizen of this country and has been looking after his five children, and three of them are studying in school and the appellant no. 2 has been earning by honest means.

10. Considering the overall facts and circumstances of the case, this Court after going through the nominal roll which mentions that appellant no. 2 has already served sentence of rigorous imprisonment for 22 days out of the sentence awarded to him in the year 2009 and the fact that the conviction is not being challenged, this Court directs that the sentence of imprisonment of the appellant no. 2 Badal be reduced to the period already undergone by him in relation to the present case.

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

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



13. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MAY 8, 2024/ns