



2024:DHC:8989



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

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Date of Decision: 20.11.2024+ **CRL.A. 422/2009****MALKHAN SINGH & ORS.****.....Appellants**

Through: Mohd. Syed Nooruzzama, Mr.
Hashim Khan and Mr. Salim
Khan, Advocates along with
appellant no. 2 & 3.

versus

STATE**.....Respondent**

Through: Mr. Naresh Kumar Chahar,
APP for the State with SI
Mahesh Chand, P.S. Badarpur.

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J. (ORAL)**

1. The instant appeal under Section 374(2) of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of appellants seeking setting aside of the judgment of conviction dated 02.05.2009 and order on sentence dated 06.05.2009 passed by the learned Additional Sessions Judge (Fast Track Court), New Delhi in Sessions Case No. 49/08, arising out of FIR No. 459/01, registered for the offences punishable under Sections 186/353/342/332/506/34 of the Indian Penal Code, 1860 ('IPC') at Police Station (P.S.) Badarpur, Delhi. The appellants herein were convicted under



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Sections 308/341/353/506(I)/34 of IPC and were sentenced to undergo – simple imprisonment for a period of one month and payment of fine of Rs. 500/- for offence punishable under Section 341/34 of IPC, (ii) rigorous imprisonment for a period of six months and payment of fine of Rs. 500/- for offence punishable under Section 353/34 of IPC, (iii) rigorous imprisonment for a period of one year and payment of fine of Rs.1000/- for offence punishable under Section 308/34 of IPC, (iv) rigorous imprisonment for a period of six months and pay a fine of Rs. 500/- for offence punishable under Section 506(I) of IPC.

2. Brief facts of the case are that the present FIR was lodged on the complaint of Constable Rajbir Singh, against Malkhan Singh, Ravinder @ Guddu, Nitu Singh, Jai Kumari, Babita, Manju and Anita, wherein it was alleged that the complainant had gone to serve the summons upon one Sh. Satender, where he had met Malkhan Singh, i.e. appellant no. 1. The complainant had informed him about the summons, but Malkhan Singh had got angry and had threatened the complainant to move away. The complainant had told him that he was a government employee and was only carrying out his duties, however, the other accused persons had then come out of the house and started beating the complainant with fist and leg blows. Thereafter, the complainant had fallen on the floor. It was alleged that all other members inside the house had started beating the complainant and they had also threatened the complainant to falsely implicate him on the allegations of outraging the modesty of women present in the house. Malkhan Singh had also wrapped the *dupatta* of



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his daughter around the neck of the complainant and had tried to strangle him. After the completion of investigation, charge sheet under Sections 186/342/332/353/506/34 of IPC against all the seven accused persons was filed. The learned Trial Court framed charges under Sections 342/353/308/506/34 of IPC. The appellants were convicted by the learned Trial Court after conclusion of trial.

3. Aggrieved by the aforesaid impugned judgment of conviction and order on sentence, the present appeal had been preferred on behalf of the appellants.

4. Learned counsel appearing on behalf of the appellants submits that the appellants are not pressing the present appeal on its merits. However, he states that since the FIR in question relates to the year 2001 and the appellants herein have faced the trial as well as the present proceedings for about 23 years, a lenient view be taken by modifying the sentence to the period already undergone by them.

5. Learned APP for the State submits that he has no objection if the conviction is upheld and the sentence is reduced to the period already undergone by the appellants.

6. This Court has heard arguments addressed by the learned counsel for the appellants and learned APP for the State and has perused material on record. This Court has also gone through the order on sentence.

7. A perusal of the order on sentence reveals that the learned Trial Court has observed that all the appellants herein are first time offenders and have not been involved in any other criminal cases. Malkhan Singh, who has since passed away, was only involved in a



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matrimonial case, which also stood decided when the order on sentence had been passed. All the appellants were acquitted of offence under Section 186 of IPC and were ordered to undergo imprisonment for offences as noted in the preceding discussion.

8. Having heard both the parties, this Court is of the opinion that the present appellants are not involved in any criminal case, other than the present one. Nitu Singh i.e. appellant no. 3, is aged about 48 years, and is also suffering from paralysis as she had suffered a paralytic attack and is partially handicapped. He has remained in judicial custody for five days and has two minor children. Ravinder @ Guddu i.e. the appellant no. 2 is aged about 54 years and has four children. He has remained in judicial custody for three days.

9. This Court is of the opinion that the present appellants have suffered a prolonged trial since the year 2001. They were convicted in the year 2009 and now the present appeal was taken up almost 15 years after the impugned orders were passed.

10. Considering the overall facts and circumstances of the case, this Court directs that the sentence awarded to the appellant no. 2 and 3 shall stand modified to the extent of the period of imprisonment already undergone by them.

11. Bail bonds stand cancelled and sureties stand discharged.

12. In view of the above, the present appeal stands disposed of.

13. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

NOVEMBER 20, 2024/zp