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

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Reserved on: 22.05.2024

Pronounced on: 30.05.2024

+ **CRL.A. 584/2009**

ANIL KUMAR SHARMA

..... Appellant

Through: Appellant with his counsel Mr.
Nirmala Singh and Mr.
Mayank Yadav, Advs.

versus

STATE

..... Respondent

Through: Mr. Manoj Pant, APP for the
State with Ms. Divya and Ms.
Ritika Racchoya, Advocates
along with SI Kavish Rana,
P.S. Laxmi Nagar.

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 by the appellant against the judgment and order on sentence dated 14.07.2009 and 17.07.2009 passed by the learned Additional Sessions Judge, Karkardooma Court, Delhi whereby the appellant was convicted under Sections 308/34 of the Indian Penal Code, 1860 ('IPC') and sentenced to undergo rigorous imprisonment for a period of one year with fine of Rs.5,000/- and in default of payment of fine,



to further undergo rigorous imprisonment for a period of three months.

2. Brief facts of the present case, as per prosecution, are that on 20.09.2007, an incident had taken place near S.D.M. office after altercation between the appellant and complainant, wherein the appellant had hit the complainant on his head with a *danda*. When the said incident had taken place, somebody from the public had called the police and when the PCR van had reached the spot, the appellant was not present at the place of incident. It was alleged that thereafter, the complainant was taken to the hospital where his MLC was prepared and after examination, it was opined that injuries suffered by the complainant were grievous in nature. On 22.09.2007, the complainant had lodged a complaint in with the police, on the basis of which the present case under Sections 308/34 of IPC was registered against the accused persons. Charges were framed against the accused persons and evidence was led by the prosecution. After conclusion of trial, the learned Trial Court had convicted the appellant along with other co-accused persons under Sections 308/34 of IPC. Against the judgment dated 14.07.2009 and order on sentence dated 17.07.2009, the present appeal was preferred by the appellant herein.

3. At the outset, learned counsel for the appellant on instructions states that the appellant is not pressing the present appeal on its merits. However, he 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.

4. Learned APP for the State has argued to the contrary.

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

6. The present case pertains to the FIR which was registered in the year 2007 i.e. 17 years ago. The present appeal has been pending before this Court for last 15 years. The appellant herein was 37 years of age at the time of the incident in question, which is of the year 2007.

7. The record shows that in the last 17 years, the appellant has proved to be a useful citizen of this country and has been looking after his family and has been earning by honest means. The record further reflects that during the period from 2007 till date, his conduct has remained good and no other case has been registered against him.

8. Thus, considering that the appellant has not challenged his conviction at this stage, this Court, after going through the nominal roll which mentions that the appellant has already served sentence of rigorous imprisonment for twenty three days out of the sentence of one year awarded to him in the year 2009, 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 present case. However, a further fine of Rs.10,000/- is imposed upon him which shall be deposited in the Delhi High Court Lawyers' Library Fund within two week's time.

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



10. Subject to depositing the aforesaid fine, the Bail bond stands cancelled and the surety stands discharged.

11. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MAY 30, 2024/A