



\$~10 & 11

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

+ CRL.REV.P. 723/2017 & CRL.M.(BAIL) 1689/2017

AMIT KUMAR

.....Petitioner

Through: Mr. Sunil Kumar Mehta &
Mr. Trilochan Prakash
Ravi, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Naresh Kumar
Chahar, APP for the State
SI Avaneesh Kumar, PS-
Krishna Nagar

+ CRL.REV.P. 730/2017 & CRL.M.(BAIL) 1700/2017

MAHESH

.....Petitioner

Through: Mr. Sunil Kumar Mehta &
Mr. Trilochan Prakash
Ravi, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Naresh Kumar
Chahar, APP for the State
SI Avaneesh Kumar, PS-
Krishna Nagar

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

26.09.2024

%

1. The present revision petitions are filed challenging the judgment dated 25.08.2017 (hereafter '**impugned judgment**'), passed by the learned Appellate Court, in Criminal Appeal 128/2017.

2. The learned Appellate Court, by the impugned judgment,



has dismissed the appeal preferred by the petitioners and upheld the judgment on conviction dated 18.04.2017 and order on sentence dated 02.06.2017, passed by the learned Metropolitan Magistrate, East District, Karkardooma Court, Delhi, in Case No. 7122/2016 arising out of FIR No. 524/2006, registered at Police Station Krishna Nagar.

3. By judgment on conviction dated 18.04.2017, the learned Trial Court had convicted the accused persons of the offences under Sections 325/326/34 of the Indian Penal Code, 1860 ('IPC').

4. By the order on sentence dated 02.06.2017, the learned Trial Court had sentenced the petitioners to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹5,000/- each for the offence under Section 325 of the IPC. The petitioners were also sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹5,000/- each for the offence under Section 326 of the IPC. In default of payment of fine, the petitioners were sentenced to undergo simple imprisonment for a period of two months. The sentences were directed to run concurrently.

5. The fine amount was paid by the petitioners.

6. This Court, by separate orders dated 04.01.2018, before suspending the sentence of the petitioners, had noted that out of the sentence of one year, the petitioners had already undergone imprisonment for a period of 4 months and 25 days (petitioner Amit Kumar) and a period of 4 months and 20 days (petitioner Mahesh) respectively.

7. The brief facts of the case are that the petitioners allegedly picked a quarrel with the complainant and his uncle on a trivial issue. Thereafter, the petitioners allegedly assaulted the



complainant and his uncle brutally with a *danda* and a sword. The injuries were opined to be serious in nature.

8. The learned counsel for the petitioners, at the outset, submits that the petitioners were convicted after more than a decade in the year 2017 and another seven years have elapsed since then as well. He submits that the petitioners have already undergone a fair portion of the sentence in custody and he has instructions to confine his arguments to the question of sentence.

9. He submits that the subject FIR was registered pursuant to a sudden fight that took place in the year 2006, when the petitioners were young men of 20-23 years of age.

10. He submits that the offences for which the petitioners have been convicted do not prescribe any minimum sentence.

11. He submits that the petitioners have now moved on in life and they are happily married with children to take care of.

12. He submits that a lenient view may be taken by considering the fact that the petitioners have already undergone more than four months in custody. He submits that the petitioners are assimilated in the society and no purpose would be served by subjecting them to undergo the remaining period in custody.

13. The learned Additional Public Prosecutor for the State submits that the State has no objection if the sentence of the petitioner is commuted to the period already undergone.

14. I have heard the counsel and perused the record.

15. The Hon'ble Apex Court, in the case of ***Ramdas v. State of Madhya Pradesh : (2009) 4 SCC 57***, in a case involving conviction for the offence under Section 324 of the IPC, had commuted the sentence of 3 years to the period already undergone, that is, fifteen months, by factoring in that the appellant therein had been prosecuting the matter before various



Courts for over fourteen years.

16. In the present case as well, it is relevant to note that the incident dates back to the year 2006 and the petitioners have been pursuing the matter for over eighteen years. As pointed out, the petitioners at the time of the incident were young individuals.

17. A bare perusal of the record shows that the altercation arose due to a petty dispute. There is no mention of any prior enmity between the parties either. The learned Trial Court and the learned Appellate Court convicted the petitioners after appreciating the material on record, including the depositions of the victims as well as the MLCs of the victims.

18. Considering the aforesaid discussion, in the opinion of this Court, interests of justice would be met if the sentence imposed upon the petitioners is reduced to the period already undergone by them.

19. In view of the above, without interfering in the conviction of the petitioners, their respective sentence of one year is reduced to the imprisonment already suffered by the petitioners.

20. The present petitions are disposed of in the aforesaid terms.

21. The bail bonds and sureties furnished by the petitioners shall stand discharged.

22. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

SEPTEMBER 26, 2024

“SS”