



2025:DHC:10139



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

Reserved on: 14th November, 2025

Date of Decision: 18th November, 2025

+ CRL.A. 742/2003

RAKESH SINGH

.....Appellant

Through: Mr. Haneef Mohammad, Mr. Anil Vyas, Mr. Kamal and Mr. Ashwani Kumar, Advocates alongwith Appellant in person.

versus

STATE

.....Respondent

Through: Mr. Mukesh Kumar, APP for the State alongwith Mr. Arsalan Naik, Mr. Sunil Singh Rawat, Mr. Naveen, Mr. Naresh Kumar Dagar and Mr. Siddharth Goyal, Advocates with SI Mamta, P.S. Dabri.

CORAM:

HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

JUDGMENT

1. By way of the present appeal, the appellant seeks to assail the judgment dated 30th September, 2003 and the Order-on-Sentence dated 8th October, 2003 passed by the Trial Court arising out of the FIR bearing No. 643/1997 registered at Police Station-Dabri, Delhi.
2. *Vide* the impugned judgment, the appellant was held guilty for committing the offence punishable under Section 307 r/w 34 of the Indian Penal Code, 1860 (hereinafter "IPC") and *vide* the impugned order on sentence, the appellant was sentenced to undergo Rigorous Imprisonment



for a period of 03 years along with a fine of ₹1000/- and in default of payment of fine to further undergo Simple Imprisonment for a period of 01 month.

3. The appellant was charged under Section 307/34 IPC on the allegations that on 29th September, 1997 at about 7:00 PM, near Som Bazar, Madhu Vihar, he along with co-accused Pintoo and Babloo, in furtherance of their common intention caused injuries on the person of Amit Kumar with a sharp object with such intention or knowledge that, and under such circumstances that, if by that act they would have caused death of Amit Kumar, they would have been guilty of murder. To the said charge, the appellant pleaded not guilty and claimed trial.

4. The prosecution, in order to prove its case has examined five witnesses. The statement of the appellant was recorded under Section 313 CrPC, wherein the appellant had denied incriminating evidences and pleaded innocence and claimed false implication. The trial resulted in conviction, as aforesaid. Being aggrieved and dissatisfied, the present appeal has been preferred by the appellant.

5. Learned Counsel for the appellant has submitted, on instructions, that the appellant is remorseful and, being fully aware of the consequences, does not wish to press the present appeal on merits and confines his submissions only to the quantum of sentence to be modified to the period already undergone.

On the other hand, learned APP for the State has argued that the trial Court has passed the order on sentence after considering the material on record and there is no infirmity in the said order on sentence.

6. I have heard the learned Counsel for the appellant and learned APP



for the State and have examined the record.

7. PW2 Amit Kumar is the injured and is the material witness of the case. PW2 has supported the cases of the prosecution. The testimony of PW2 as to injuries suffered by him in the said assault is also corroborated by his MLC Ex. PW4/A.

Since the appellant has chosen not to press the present appeal on merits with respect to his conviction, this Court has not interfered with the findings of the conviction recorded by the trial Court and accordingly, the impugned judgment is upheld.

8. Insofar as to the modification of the sentence is concerned, it is argued that the appellant is presently aged 46 years. The appellant is married and has a minor daughter aged 10 years. The appellant is a poor person and is the only earning member in the family and in case he is sent to jail, his entire family would be ruined. The only allegation against the appellant is that he had merely caught hold of the injured.

9. A perusal of the nominal roll shows that the appellant has already undergone sentence of 01 year, 5 months and 27 days out of the total sentence of three years.

The Hon'ble Supreme Court in ***Mohammad Giasuddin vs State of Andhra Pradesh (1977) 3 SCC 287*** has observed as under:

“9. It is thus plain that crime is a pathological aberration, that the criminal can ordinarily be redeemed, that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturisation. Therefore, the focus of interest in penology is the individual, and the goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views



sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defence. We, therefore, consider a therapeutic, rather than an “in terrorem” outlook, should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind.

16. ... „A proper sentence is the amalgam of many factors such as the nature of the offence, the circumstances — extenuating or aggravating — of the offence, the prior criminal record, if any, of the offender, the age of the offender, the record of the offender as to employment, the background of the offender with reference to education, home life, sobriety and social adjustment, the emotional and mental conditions of the offender, the prospects for the rehabilitation of the offender, the possibility of return of the offender to normal life in the community, the possibility of treatment or training of the offender, the possibility that the sentence may serve as a deterrent to crime by the offender or by others and the current community need, if any, for such a deterrent in respect to the particular type of offence. These factors have to be taken into account by the Court in deciding upon the appropriate sentence. [As observed in Santa Singh v. State of Punjab, (1976) 4 SCC 190 at p. 191: 1976 SCC (Cri) 546] ”

Similarly, in ***Pramod Kumar Mishra v. State of Uttar Pradesh, 2023 SCC Online SC 1104***, the Hon’ble Supreme Court while relying on the judgment of Mohammad Giasuddin (supra) reiterated the importance of considering mitigating factors while awarding sentence, particularly in cases involving long pending prosecutions has held as under:

“10. It is a well established principle that while imposing sentence, aggravating and mitigating circumstances of a case are to be taken into consideration.”

10. Coming to the facts of the present case, the present case relates to an



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incident which has occurred 28 years ago while the impugned judgment itself was delivered nearly 22 years ago. The appellant would suffer undue hardship if incarcerated at this stage.

11. It is evident that the appellant has already undergone half of his sentence. After considering the above discussed mitigating facts and circumstances and the law laid down by the Hon'ble Supreme Court, this Court is of the opinion that this is a fit case for modifying the impugned order on sentence. Accordingly, while maintaining the conviction of the appellant, the substantive sentence of imprisonment of the appellant is modified to the period already undergone by him in jail. However, the sentence of fine is maintained. If the fine is not deposited so far, it shall be deposited by the appellant with the trial Court within a period of 02 weeks from today.

12. The appeal is partly allowed in the above terms. Pending application(s), if any, stand disposed of.

13. A copy of this judgment be communicated forthwith to the concerned Trial Court and the jail superintendent for information and necessary compliance.

**RAJNEESH KUMAR GUPTA
(JUDGE)**

NOVEMBER 18, 2025/nd/ik