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

+ **CRL.A. 48/2018**

ASHOK KUMAR

.....Appellant

Through: Mr. Dhan Mohan, Ms. Tanu B. Mishra, Ms. Tanisha Bhatia, Ms. Nikita Jha, Ms. Anjali Chaudhary, Mr. Aakash Yadav and Mr. Akshay Anumandala alongwith appellant in person

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State with SI Jitender Kumar, PS Nangloi

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
12.12.2025

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1. By way of the present appeal under Section 374Cr.P.C., the appellant seeks to assail the judgment of conviction dated 30.11.2017 and the order on sentence of even date, passed by the learned Additional Sessions Judge (Pilot Court), West, Tis Hazari Courts, Delhi, in Sessions Case No. 84/2017, arising out of FIR no. 453/2016, registered at P.S. Nangloi.
2. By the impugned order on sentence, the appellant was convicted for the offence punishable under Section 325 IPC.
3. Vide the impugned order on sentence, the appellant was sentenced to undergo Rigorous Imprisonment for a period of five years along with a fine



of Rs.3,000/-, and in default of payment of fine, to further undergo Rigorous Imprisonment for one month. The benefit of Section 428 Cr.P.C. was extended to the appellant.

4. The sentence of the appellant was thereafter suspended vide order dated 26.11.2018 during the pendency of the appeal, and the appellant was released on bail.

5. Briefly stated, the case of the prosecution was that on 26.10.2016, at about 11:00 p.m., a quarrel took place near Agarwal Sweets, Jat Chowk Wali Gali, Nangloi, between the appellant *Ashok Kumar* and the deceased *Jitender*, allegedly arising out of a minor altercation when the deceased came in front of the *rehri* (handcart) of the appellant while carrying a garbage tin box. It was alleged that during the said quarrel, the appellant caught hold of the deceased and inflicted repeated fist blows, as a result of which the deceased fell down on the road. The deceased was taken to Sanjay Gandhi Memorial Hospital, where he was declared "*brought dead*". Post-mortem examination revealed internal injuries including fracture of the seventh rib and contusion of the left lung.

6. During trial, the prosecution examined ten witnesses, including the eye-witness *Rajesh* (PW-1), who supported the prosecution case regarding the quarrel and the assault by the appellant. *Satpal* (PW-2) and *Mukesh* (PW-3) were examined as public witnesses, though PW-3 did not fully support the prosecution version. The medical evidence was proved through Dr. *Anurag Thapar* (PW-5), who conducted the post-mortem examination and opined that the cause of death was shock due to lung injury consequent upon blunt force/object impact, and that the injury was sufficient to cause death in the ordinary course of nature. The remaining witnesses were police and formal



witnesses associated with the registration of the FIR, seizure proceedings, crime-team inspection and investigation.

7. In his statement recorded under Section 313 Cr.P.C., the appellant denied all allegations and claimed false implication. He asserted that no quarrel had taken place between him and the deceased and sought to attribute the incident to a scuffle between the deceased and another person. He examined defence witnesses, including his brother and cousin, but their testimonies were disbelieved by the Trial Court.

8. Upon appreciation of the evidence, the Trial Court came to the conclusion that the prosecution had failed to establish the offence of murder or culpable homicide not amounting to murder. However, holding that the injuries suffered by the deceased amounted to grievous hurt within the meaning of Section 320 IPC, the appellant was convicted under Section 325 IPC. The State has not challenged the finding.

9. Having perused the record, this Court finds no infirmity in the appreciation of evidence by the Trial Court. Accordingly, the conviction of the appellant under Section 325 IPC is upheld.

10. The appellant is present in person and is duly identified by the IO. Learned counsel for the appellant submits that the appellant does not wish to press the present appeal on merits and confines his prayer only to the quantum of sentence already undergone. It is submitted that the appellant has already undergone a substantial portion of the sentence awarded to him. Further, it is submitted that the appellant is a twenty-seven year old man working as a labourer who is unmarried, has two brothers and his parents to look after. It is further submitted that at the time of the incident, the appellant was only about 19 years of age, had no prior criminal antecedents,



and the incident arose out of a sudden quarrel without premeditation. It is also submitted that the appellant has remained on bail during the pendency of the appeal and has not misused the liberty so granted. Although the appellant has not yet paid the fine, he undertakes to do so in the stipulated time awarded by this Court.

11. Learned APP for the State, has handed over a status report, which is taken on record and submits that as per the record, the appellant has no other criminal involvement.

12. As per the nominal roll dated 10.12.2018, the appellant has undergone half of his sentence awarded to him including remission. His conduct has been report as satisfactory and his fine amount is not paid.

13. The law with regard to release of the appellant in cases where the convict has undergone more than half of the sentence was laid down by the Supreme Court in Sonadhar v. State of Chhattisgarh¹ the relevant portion of the same is extracted hereinunder:

'We thus issue the following directions:

a) A similar exercise be undertaken by the High Court Legal Services Committee of different High Courts so that convicts represented by legal aid Advocates do not suffer due to delay in hearing of the appeals. NALSA will circulate this order to the concerned authority and monitor the exercise to be carried on.

b) The Delhi High Court Legal Services Committee would take up the cases of those convicts who have undergone more than half the sentence in case of fixed term sentences and examine the feasibility of filing bail applications before the High Court, while in case of 'life sentence' cases, such an exercise may be undertaken where eight years of actual custody has been undergone.

c) We are of the view that in fixed term sentence cases, an endeavour be made, at least as a pilot project, in these two High Courts to get in touch with the convicts and find out whether they are willing to accept their infractions and agree to disposal of the appeals on the basis of sentence undergone.

d) A similar exercise can be undertaken even in respect of 'life sentence' cases where the sentenced persons are entitled to remission of the remaining sentence

¹ decided on 06.10.2021, in SLP (CRL)No. 529/2021



i.e., whether they would still like to contest the appeals or the remission of sentence would be acceptable to such of the convicts.

Our aforesaid additional directions are based on a premise that at times if a convict has actually done of what he is accused of and he is remorseful, he may be willing to accept his acts and suffer a lesser sentence. We make it clear that the objective is not to compel or extract acceptance from such convicts depriving of the right of appeal.'

14. Having regard to the overall mitigating circumstances of the case, particularly the age of the appellant at the time of the incident, the absence of criminal antecedents, and the period of custody already undergone, this Court is of the view that the ends of justice would be adequately met by modifying the sentence to the period already undergone.

15. Accordingly, while affirming the conviction of the appellant under Section 325 IPC, the sentence of imprisonment is modified to the period already undergone. The sentence of fine imposed by the Trial Court shall remain intact. The appellant is directed to pay the fine amount of Rs. 3,000/- within four weeks from today with the concerned Trial Court and to furnish proof of such deposit before the concerned IO. In case of default, the appellant shall undergo the default sentence as imposed by the Trial Court.

16. The appeal is partly allowed and disposed of in the above terms. Pending applications, if any, also stand disposed of.

17. Subject to the payment of fine, the bail bonds furnished by the appellant shall stand cancelled and his sureties shall be discharged.

18. A copy of this judgment be sent to the concerned Trial Court and the Superintendent of Jail for information and compliance.

MANOJ KUMAR OHRI, J

DECEMBER 12, 2025

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