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

+ CRL.A. 131/2022

GOVINDA CHAUHAN @ GOVINDA & ORS.Appellants

Through: Mr. Anubhav Mehrotra, Advocate.

versus

STATE & ANR.Respondents

Through: Mr. Amit Ahlawat, APP for the State
with SI Nischay Bhadu, PS Geeta
Colony.

Mr. Ashutosh Rana, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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24.04.2025

1. The present appeal under Section 374(2) of the Code of Criminal Procedure, 1973,¹ seeks setting aside of the judgement of conviction dated 22nd December, 2021 and order on sentence dated 02nd March, 2022 passed in Sessions Case No. 1590/2016, by the court of the Principal District and Sessions Judge, East, Karkardooma Courts. The aforesaid appeal arises out of FIR No. 455/2014, registered for the offence under Sections 308/304 of Indian Penal Code, 1860,² at P.S. Geeta Colony. By the said orders, the Trial Court convicted the Appellants, along with co-accused Mukhtar, for the offences under the aforementioned provisions, and sentenced the Appellants, along with co-accused Mukhtar, to rigorous imprisonment for a period of 2

¹ "Cr.P.C."



years and 6 months each, along with a fine of ₹7,500/- each, with default sentence of simple imprisonment of 2 months.

2. Briefly stated, the case of the Prosecution/Complainant is that on 9th July 2014, at around 1:00 AM, Govinda (Appellant No. 1), approached the Complainant and requested a bottle of beer. The Complainant declined the request, citing the observance of the month of Ramzan. Aggrieved by the refusal, Appellant No. 1 left the spot. Later that afternoon, around 2:30 PM, the Appellants, along with co-accused Mukhtar, allegedly returned to the vicinity of House No. 239, Gali No. SA, New Lahore, Shastri Nagar, Delhi, and, acting in concert, assaulted the Complainant with *lathis*, fists, and kicks. This led to the registration of the subject FIR. Chargesheet was filed against the Appellants and Mukhtar Ali, followed by farming of charges under Section 308/24 of the IPC on 17th November, 2015. The accused persons pleaded not guilty and claimed trial.

3. To substantiate its case, the Prosecution examined six witnesses. The Complainant, examined as PW-3, deposed before the Trial Court that the accused persons had assaulted him in front of his shop, using a *danda* and physically attacked him, resulting in injuries to his head and other parts of the body. PW-3 categorically identified the Appellants and the co-accused as the perpetrators of the assault.

4. The Trial Court noted that the accused persons were known to the Complainant, and that the genesis of the dispute traced back to the midnight encounter over the request for beer. During the initial altercation, Appellant No. 1 had allegedly threatened the Complainant, vowing retribution. This threat was later carried out in the afternoon when the accused persons jointly

² “IPC”



assaulted the Complainant. The injuries sustained by the Complainant were corroborated by the statement of PW-5, who prepared the MLC report. The report confirmed that the Complainant had a reddish bruise and swelling on both forearms, a laceration on the back of his scalp, and swelling/bruises on his right shoulder. PW-4, from FSL, Rohini, confirmed that the blood stains found on the T-shirt worn by the Complainant matched his blood group. Furthermore, PW-6, SI Jagdeep Malik, testified regarding DD No. 20A and corroborated several exhibits, including the site plan and memos and arrest memos.

5. Although the accused persons contended that the injuries suffered by the Complainant were caused by unknown persons, the Trial Court found no evidence to suggest any previous enmity or motive on the part of the Complainant to falsely implicate them. The defence plea that the Complainant had fabricated the allegations with an intent to extort money was rejected, as no supporting material was placed on record, nor was any plausible explanation offered as to why the Complainant would target the accused persons in such a manner.

6. On a cumulative appreciation of the medical, ocular and forensic evidence, the Trial Court concluded that the Prosecution had established, beyond reasonable doubt, that the accused persons had caused injury on the vital part of the Complainant's body, with the intention to commit culpable homicide not amounting to murder. Accordingly, the Appellants were convicted for the offence under Sections 308/34 IPC, and awarded a rigorous imprisonment for a period of 2 years and 6 months each, along with a fine of ₹7,500/- each with default sentence of simple imprisonment of 2 months. Of the said amount, a sum of ₹15,000/- was directed to be paid to



the Complainant, while ₹15,000/- was to be paid to the State.

7. The Appellants seek setting aside of the judgment of conviction and order on sentence. Having heard the Counsel for the Appellant and upon careful perusal of the impugned order as well as the material on record, this Court finds no reason to differ from the findings of the Trial Court. The evidence led by the Prosecution cogently establishes the chain of events leading to the incident, and the guilt of the Appellants under Section 308 read with Section 34 of the IPC stands duly substantiated. The testimony of the Complainant, who unequivocally identified the Appellants as his assailants, finds clear corroboration in the MLC beating No. C-2285/2014, as well as in the medical deposition of PW-5. The injuries described, a laceration on the back of the scalp, reddish bruising and swelling on both forearms, and contusions on the right shoulder, are consistent with the version narrated by the Complainant, and support the Prosecution's case of an assault with sufficient intent and force.

8. On the other hand, the Appellants have not produced any material evidence that would cast doubt on the Prosecution's version or discredit the Complainant's testimony. There is nothing on record to suggest any prior animosity, ill-will, or ulterior motive on the part of the Complainant that could have led to a false implication. The defence theory, premised on general denial and unsubstantiated claims of fabrication or extortion, remained unsupported by any credible evidence.

9. In view of the aforesaid facts and circumstances, this Court is of the opinion that the findings of the Trial Court are based on a fair and proper appreciation of the material on record. The conviction is founded upon a coherent chain of evidence, both ocular and medical, and does not suffer



from any perversity or legal infirmity. No ground has been made out for interference with the judgment of conviction.

10. At this juncture, Mr. Anubhav Mehrotra, counsel for the Appellants, submits on instructions, that the Appellants do not seek to challenge the conviction on merits. However, they seek a modification of the sentence awarded to them, praying that it be reduced to the period already undergone. It is submitted that the Appellants are all daily wage earners working as auto-rickshaw drivers, each supporting large families on modest monthly incomes of approximately ₹15,000–₹16,000/-. Appellant No. 1 is married and has dependent elderly parents. Appellant No. 2 is the sole earning member responsible for five sisters and a young daughter. Appellant No. 3 supports his wife, two sisters, a ten-year-old daughter, and ageing parents.

11. It is relevant to note that, as per the MLC, the injuries sustained by the Complainant were categorised as “simple” in nature. Moreover, on 10th February, 2024, the Complainant appeared *via* video conferencing and confirmed that he did not wish to pursue the matter further. He stated unequivocally that the dispute had been resolved amicably and that he had no objection if the sentences imposed on the Appellants were reduced to the period already undergone. This statement is reiterated by his counsel who is present today. While such a concession is not legally determinative after conviction, given that the offence under Section 308 IPC is non-compoundable, it may nonetheless be considered as a mitigating circumstance for the limited purpose of sentencing.

12. The sentences awarded by the Trial Court were suspended on 2nd March, 2022, and subsequently by this Court on 28th April, 2022. Pursuant thereto, the Appellants were released on bail. As per the nominal rolls,



Appellant Nos. 1 and 3 had undergone incarceration for a period of 2 months and 11 days as on 2nd March, 2022, while Appellant No. 2 had remained in custody for over 4 months as on 30th January, 2025.

13. The jail conduct of all three Appellants has been reported as satisfactory. With regard to their antecedents, it is submitted that Appellant No. 1 has been acquitted in the cases previously registered against him. Appellant No. 2 stands acquitted in one case, with one other case presently pending. Appellant No. 3 has similarly been acquitted in one matter, while two other cases are pending adjudication. No material has been brought to the notice of the Court that would suggest abuse of the process of law or any violation of bail conditions.

14. Having regard to the totality of the circumstances, including the simple nature of injuries, the subsequent settlement between the parties, the satisfactory conduct of the Appellants, and the period of incarceration already undergone, this Court is of the opinion that ends of justice would be adequately met by modifying the sentence awarded by the Trial Court. Accordingly, while upholding the conviction of the Appellants under Sections 308/34 IPC, the sentence is modified to the period already undergone.

15. For the avoidance of doubt, this Court clarifies that the present modification of sentence does not, in any way, dilute the seriousness of the offence for which the Appellants stand convicted. The reduction is not a negation of culpability, but a measured exercise of judicial discretion, acknowledging the specific facts and circumstances surrounding the incident, the nature of injuries, post-conviction conduct, and the prospect of reformation.



16. Although the victim has been compensated to some extent, the Appellants are directed to pay a further sum of ₹7,500/- each to the Complainant as compensation under Section 357 Cr.P.C. The said amount shall be deposited within one week from today before the Trial Court, which shall ensure disbursement to the Complainant, upon due verification.

17. The appeal is accordingly disposed of in the above terms. The bail bonds furnished by the Appellants are cancelled and their sureties stand discharged.

18. A copy of this order be communicated to the concerned Jail Superintendent as well the Trial Court.

SANJEEV NARULA J.

APRIL 24, 2025
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