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

% ***Date of decision: April 23, 2025***

+ CRL.A. 251/2021

STATE

.....Appellant

Through: Mr. Shoaib Haider, Additional Public
Prosecutor for State

Versus

RAVI KUMAR

.....Respondent

Through: In person.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The present Appeal under Section 373(3) Cr.P.C. has been filed by the Petitioner-State against the Order on Sentence dated 19.02.2020 whereby the Respondent has been convicted for the offence under Section 325 IPC instead of 308 IPC in case FIR No.1160/2014, registered at Police Station Karawal Nagar, Delhi and he has been released on probation for a period of one year with one surety in the sum of Rs.15,000/-. Setting aside of Judgment dated 19.02.2020 is sought by this Appeal by Appellant-State.

2. ***Briefly stated***, the Complainant and Respondent are related to each other and were living in neighbourhood. On 20.12.2024, the Complainant had an altercation with the Respondent. The Complainant went to meet his mother and while he was returning, the Respondent, who was standing in *gali* holding a *danda*, hit on his head. The Complainant started to bleed and felt drowsy and fell on the floor unconsciously.



3. The wife of the Complainant called the Police and he was removed to the hospital. HC Vinod Kumar along with Constable Sangram reached the spot and on coming to know that the injured has already been removed to GTB Hospital, reached there and collected his MLC. However statement of the Complainant could not be recorded as he was not fit for statement.
4. On 21.12.2024 statement of the Complainant was recorded and FIR was registered and accused was arrested. After completion of the investigation, Charge-Sheet for the offence under Section 308 IPC was filed in the Court.
5. The learned Trial Court *vide* Order dated 12.12.2018 framed Charge under Section 308 IPC against the Respondent. Eight Prosecution witnesses were examined before the learned Trial Court. The accused-Respondent examined two witnesses in his defence.
6. The learned Trial Court in light of the testimony of the witnesses led by the Prosecution as well as in Defence, *vide* impugned Judgment dated 19.02.2020 observed that there was no evidence to prove that the attack on the Complainant by the accused was premeditate or that he had requisite intention or knowledge to commit culpable homicide. Therefore, it was concluded that the Charges under Sections 325 IPC instead of Section 308 IPC were proved and the Respondent was accordingly convicted under Section 325 IPC and *vide* Order on Sentence dated 19.02.2025 was released on probation of good conduct, on his furnishing Surety in the sum of Rs.15,000/- and to pay compensation of Rs.50,000/- to the Complainant.
7. ***The Appellant-State has challenged*** the conviction of the Respondent under the lesser offence of Section 325 IPC on the ground that it was a



danda with which injury was inflicted on the vital part of the body i.e. head. From the the manner of inflicting the injury and also the body part involved, it is evident that the conviction should have been made under Section 308A IPC instead of Section 325 IPC. By way of present Appeal, the conviction is sought to be challenged. It is, therefore, submitted that conviction be modified to one under Section 308 A IPC.

8. ***Submissions heard and record perused.***

9. In the present case, Complainant and the Accused are related to each other and are living in the same vicinity. A scuffle took place between the parties and the Respondent inflicted injury on the Complainant. The Complainant started bleeding and fell on the ground. His wife called the police and he was taken to the GTB Hospital. The prosecution examined eight witnesses.

10. The main witness on which the case of the Prosecution rested was the testimony of PW-1 who had deposed on similar lines as her Complaint EX PW1/A that a *danda* blow was inflicted on the head of her husband by the Respondent.

11. To prove the nature of injuries, the Prosecution had examined PW-5 Dr. Nadeem who had deposed that Dr. Sujeet, who was working under him, had examined the Complainant when he was brought to the hospital. It was observed that he had redness and swelling over right frontal region with nasal bleeding and the nature of injury was “grievous in nature”. PW-4- Dr. Himanshu Tuli proved the MLC as EX. PW4/A.

12. From the comprehensive testimony of the aforesaid Prosecution witnesses, it cannot be shaken in the cross-examination it is proved that the



danda blow was given on the head of the Complainant which resulted in the injuries. There is no evidence whatsoever to show that it was pre- meditated attack or that the Respondent had any intention to commit culpable homicide. The learned Trial Court has rightly observed in the Judgment, thus-

“20. In the present case it is proved that the complainant and the accused were residing in same locality. There was a quarrel between the complainant and the accused on trivial issue. The accused cause grievous injuries to the complainant by inflicting danda blow. The complainant was discharged from hospital on same day and was conscious when he was brought to the hospital. There is no evidence to prove that attack on the complainant by the accused was premeditated. There is no evidence that the accused was having requisite intention or knowledge to cause culpable homicide. Mere fact that injury were inflicted on head, which is vital part of the body, does not necessary mean that the accused was having necessary knowledge and intention to kill the complainant.”

13. Section 308 IPC addresses offence of attempting to commit culpable homicide not amounting to murder. Whosoever does any act with such intention or knowledge and under such circumstances that any act would cause death, would be guilty of culpable homicide not amounting to murder shall be punished. In the present case, the complainant and the Respondent entered into an altercation over quarrel amongst the children. The injuries caused by the Respondent was not with any intention to commit an offence of culpable homicide.



14. Cogent reasons have been given by the learned Trial Court as to why conviction of the Respondent has been made under Section 325 IPC. There is no ground for interference in the impugned Judgment and Order on sentence dated 19.02.2020.

15. The Appeal and pending Application (s), if any, are hereby dismissed.

(NEENA BANSAL KRISHNA)
JUDGE

APRIL 23, 2025

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