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

+ **CRL.A. 1237/2019**

STATE

.....Appellant

Through: Mr. Laksh Khanna, APP for the State

versus

DEEPAK KUMAR

.....Respondent

Through: Mr. Amit Rana, Mr. Pranjal Kr. Bhaskar, Advocates with Respondent in person

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% 27.02.2025

1. The present appeal has been filed impugning the order of sentence dated 27.07.2019 ('impugned judgment') passed by learned ASJ, North District, Rohini District Court, Delhi ('Trial Court') in SC No. 414/18 for FIR No. 421/2015 registered at P.S. Narela, Delhi for offence under section 308 of Indian Penal Code, 1908 (IPC).
2. The Trial Court vide order dated 25.08.2018 frame charge under Section 308 IPC. During the pendency of the trial, the Respondent/accused moved an application for pleading guilty for the offence committed by him and relying upon the same the Trial Court convicted the Respondent vide judgment dated 27.05.2019.
3. Vide impugned judgment the Respondent has been sentenced (i) to undergo imprisonment for period already undergone by him [which is (1)



one month] (ii) to pay a fine of Rs.50,000/- out of which Rs.25,000 is to be paid to the complainant as compensation and Rs. 25,000/- is to be deposited with State as fine; in default of payment of fine, he is directed to undergo simple imprisonment (SI) for one month.

4. It is a matter of record that the Respondent has duly paid the compensation awarded.

5. The present appeal has been filed by the State seeking enhancement of the sentence.

Brief facts

6. As per the allegations, one injured namely Ashish (victim/complainant) was admitted in the Satyawadi Raja Harish Chandra Hospital wherein as per the MLC No. 1182/15 he was found unfit for statement. Thereafter, injured was shifted to LNJP¹ Hospital and his statement was recorded on 12.04.2015 wherein he stated that the complainant had come for some work to Safiabab and was drinking a cold drink, at the said spot. At that time, the Respondent/accused was using filthy language. When the complainant objected to the same, the Respondent started abusing the complainant as well in filthy language. Thereafter, the Respondent took a bottle of cold drink from a nearby shop and struck it on the head of the complainant causing injury and Respondent/accused eventually escaped from the spot. On the basis of the statement of complainant/injured Ashish, FIR was registered for the offence under Section 308 of IPC.

¹ Lok Nayak Jai Prakash Narain Hospital



Submissions on behalf of the Appellant/State

7. Learned APP appearing for the Appellant/State submits that present appeal has been filed seeking enhancement of the sentence since it is a case of inadequate sentence.

7.1. He states that an injury was inflicted by the Respondent to the victim/complainant on his head which a vital part of body with a glass bottle because of which the Respondent was charged and convicted for offence committed under section 308 of IPC by the Trial Court vide order dated 27.05.2019.

7.2. He states that the conviction of the Respondent was based on the plea of guilt, for which he had moved an application before the Trial Court when the matter was at the stage of examination of witnesses.

7.3. He states that the Trial Court erred in imposing lesser punishment and released the Respondent on the period (one month) already undergone in undertrial. He states that considering the circumstances and nature of the offence committed, the sentence should be suitably enhanced.

7.4. He states that the Trial Court has extended undue leniency to the convict and the sentence awarded is not proportionate with the nature of offence.

Submissions on behalf of the Respondent

8. Learned counsel for the Respondent states that no error is apparent in the impugned order since Trial Court order reflects application of judicial mind over the 'reformatory theory'.

8.1. He states it cannot be said that the Trial Court has passed the impugned order in a mechanical and routine manner since the said impugned order has been passed keeping in mind the various mitigating circumstances



wherein the Respondent is the sole bread earner and has to support his family, which includes his old parents and the period (one month) for which the Respondent had already remained behind the bars. Besides that, a monetary fine of Rs. 50,000/- was also imposed upon the Respondent which stands duly paid.

8.2. He states that the Respondent has no priors and has after being granted regular bail in this matter on 08.05.2015 remained a law-abiding citizen.

8.3. Furthermore, during investigation, the MLC of the complainant/injured was prepared in the hospital and it was opined that the nature of injury is simple, therefore, in view of the aforesaid the sentence/ of one (1) month awarded with the monetary fine cannot be said to be inadequate.

Findings and Analysis

9. This Court has heard the parties and perused the record.

10. The question that arises for consideration before this Court is whether the impugned order on sentence requires any interference.

11. Before adverting to the facts of the present case it would be imperative to refer to the judgment passed by the Division Bench of this Court in **State (Govt. of NCT of Delhi) v. Sonu**² wherein it was held that enhancement of a sentence by an Appellate Court is justified in cases only where the sentence is manifestly inadequate. The relevant portion of the judgment reads as under:

“12. In India, appeals against inadequate sentences are possible to the superior Courts i.e. High Courts and ultimately to the

² 2019 SCC OnLine Del 11259



Supreme Court under the powers given to them in the Criminal Procedure Code and the Constitution. The scope of challenge to the sentence awarded by the Trial Court in appeals is, however, limited as is made clear in the various pronouncements of the Apex Court. The question of sentence is normally a matter of judicial discretion of the trial court and the superior Court does not as a rule interfere with the exercise of such discretion. In a matter of enhancement, there should not be interference when the sentence passed imposes substantial punishment. Enhancement of a sentence by an appellate Court is justified in cases only where there is a 'particular and cogent' ground warranting interference.

13. Consequently, interference is only called for when it is manifestly inadequate. The Supreme Court in *Ram Narain v. State of U.P.* (1970) 3 SCC 493 has held as under:—

“5.Merely because the appellate court feels that left to itself it would have preferred to impose the sentence of death is by itself and without more not a sufficient ground to justify enhancement. It is only when the sentence appears on the facts and circumstances of the case to be so manifestly inadequate as to have resulted in failure of justice that enhancement of the sentence may be justified by the appellate Court.

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7. It is true that this Court normally does not interfere with the discretion exercised by the High Court on the question of sentence even though the same has been enhanced but where the trial court has exercised its discretion on proper consideration of the material on record and its order cannot be described to be either contrary to recognised principle or otherwise having caused failure of justice and further when the State does not consider that the ends of justice require enhancement of the sentence but the High Court interferes at the instance of a private complainant this Court would be fully justified in considering for itself the propriety of the sentence as enhanced by the High Court.”

(emphasis supplied)



14. In broad terms, the appellate Court will interfere when:—

- a. The sentence is not justified by law, in which case it will interfere not as a matter of discretion, but of law;
- b. Where sentence has been passed on a wrong factual basis;
- c. Where some matter has been improperly taken into account or there is some fresh matter to be taken into account; or
- d. Where the sentence was wrong in principle or manifestly excessive/inadequate.

15. The above-mentioned categories are not exhaustive and they may overlap.”

(Emphasis Supplied)

12. Mr. Khanna, learned APP fairly submits that under Section 308 IPC there is no minimum sentence of imprisonment provided though a maximum term upto 7 years is provided.

13. The incident which is the subject matter of the trial happened at the spur of the moment and the injury suffered by the victim has been opined as simple.

14. The Trial Court, while passing the impugned order on sentence, has preferred to adopt a reformatory approach towards the Respondent, especially since he voluntarily pleaded guilty at the beginning of the trial. This Court vide order dated 11.02.2025, sought a social investigation report from the concerned Prohibition Officer (‘PO’) qua the Respondent. In response, a report dated 25.02.2025 has been filed by the PO which favour the Respondent and records that Respondent is living a disciplined and orderly life with his family. The report records that he is married, has two daughters and an elderly mother who are being supported by him and they



are financially dependent on him. A holistic reading of the report of the PO shows that the PO found the Respondent a reformed individual.

15. In the facts of this case, since the Respondent/accused had voluntarily pleaded guilty, without any threat, pressure or coercion; the same as well signifies that he is capable of reformation since one of objectives of sentencing is the possibility of the convict being reformed and the society benefiting at large. In this regard, it would be apposite to reproduce the observation passed by the Division Bench of this Court in **Sonu (supra)** which read as under:

“AS ‘JUDICIAL CAPITAL’ IN TERMS OF MANPOWER AND RESOURCES IS EXTREMELY LIMITED, THE ACCUSED WHO ENTERS THE PLEA OF GUILT CANNOT STAND ON THE SAME PEDESTAL AS AN ACCUSED WHO IS CONVICTED AND SENTENCED AFTER A FULL-FLEDGED TRIAL. ALSO, THE FACT THAT THE RESPONDENT-ACCUSED HAD VOLUNTARILY PLEADED GUILTY, INDICATES THAT HE IS CAPABLE OF REFORMATION. THIS COURT IS OF THE VIEW THAT THE IMPUGNED ORDER OF SENTENCE IS NOT MANIFESTLY INADEQUATE.

19. The fact that the respondent-accused had voluntarily pleaded guilty merits consideration especially in view of our overburdened judicial system. As ‘judicial capital’ in terms of manpower and resources is extremely limited, the accused who enters the plea of guilt cannot stand on the same pedestal as an accused who is convicted and sentenced after a full-fledged trial. The Law Commission in its 142nd Report titled “Concessional Treatment For Offenders Who On Their Own Initiative Choose To Plead Guilty Without Any Bargaining” has observed as under:—

“It is not just and fair that an accused who feels contrite and wants to make amends or an accused who is honest and candid enough to plead guilty in the hope that the community will enable him to pay



the penalty for the crime with a degree of compassion and consideration should be treated on par with an accused who claims to be tried at considerable time-cost and money-cost to the community.”

(Emphasis Supplied)

16. In the present case, this Court does not find any compelling reason to interfere with the sentence awarded by the Trial Court, since after the incident, which led to the filing of the subject FIR nothing has been brought on record to suggest that thereafter, Respondent has indulged in any other criminal activity.

17. In the PCIR³ report it is recorded that prior to the subject FIR no. 421/2015, another FIR bearing no. 235/2011 was registered against the Respondent under Sections 498A/406/34 IPC. Learned counsel for the Respondent states that the said FIR was registered at the instance of the first wife of the Respondent. He states that the Respondent has divorced his first wife in the year 2014. He states that, thereafter, Respondent had filed a petition i.e., CRL.MC 1766/2018 for quashing of the said FIR, wherein the police reported that the first wife passed away on 10.03.2018 and therefore the said petition was withdrawn. He has relied upon an order dated 11.02.2019 passed in CRL.MC 1766/2018. He states that no trial is pending qua the said FIR no. 235/2011. In response, learned APP states that he has no instructions with respect to FIR no. 235/2011 since it is pending before PS Samaypur Badli. This Court has considered the said submission and is satisfied that the FIR no. 235/2011 pertaining to matrimonial disputes filed prior to the subject FIR no. 421/2015 is no ground for considering enhancement of the sentence.

³ Previous conviction/Involvement Report



18. In view of the aforesaid facts and mandate of law, this Court is, therefore, of the view that the impugned order was passed after consideration of all relevant factors and the sentence awarded is not manifestly inadequate as contended by the State. Accordingly, present appeal and application, being bereft of merit, are dismissed.

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 27, 2025/hp/ms

[Click here to check corrigendum, if any](#)