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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 1063/2025**

STATE

.....Appellant

Through: Ms. Richa Dhawan, APP
for the State.
SI Vijay, PS Connaught
Place.

versus

PAWAN KUMAR AND ANR

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **29.07.2025**

CRL.M.A. 21881/2025(exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.A. 1063/2025 and CRL.M.A. 21880/2025 (delay of 310 days in filing the appeal).

3. The present appeal is filed challenging the order on sentence dated 27.04.2024 (hereafter “**impugned order on sentence**”) passed by the learned Additional Sessions Judge – 05 (‘ASJ’), Patiala House Courts, New Delhi in Criminal Appeal No. 141/2023, arising out of FIR No. 78/2013 registered at Police Station Connaught Place, for offences under Sections 186/329/332/353/356/34 of the Indian Penal Code, 1860 (‘IPC’).
4. The brief facts, as narrated in the prosecution case, are that on 24.05.2013, at around 11:00 am, the accused persons along with the respondents and some unidentified associated, formed an unlawful assembly at Janpath Market near DFMD Barricades, Bank of Baroda Side, and voluntarily obstructed the victim, who



was a police constable, in discharge of his public duties. It is alleged that the accused persons assaulted the victim, causing him simple injuries. It is alleged that they also snatched the gold chain weighing about 8 grams, from the neck of the victim.

5. The respondents were convicted for the offences under Sections 186/332/353/34 of the IPC by the judgement of conviction dated 24.02.2023 passed by the learned Metropolitan Magistrate ('MM'). By the order on sentence dated 23.05.2023, the respondents were sentenced to undergo simple imprisonment for a period of three months for the offence under Section 323 of the IPC, simple imprisonment for a period of three months for the offence under Section 353 of the IPC and simple imprisonment for a period of one month for the offence under Section 186 of the IPC and were directed to pay compensation of Rs. 20,000/- each, to the victim. All the sentences were directed to run concurrently.

6. The respondents filed an appeal before the learned Court of Sessions, challenging the judgement of conviction dated 24.02.2023 and order on sentence dated 23.05.2023 passed by the learned MM. By the impugned order on sentence dated 27.04.2024, the learned ASJ upheld the judgement of conviction dated 24.02.2023, however, considering the fact that the respondents had been in custody for some time during the course of trial, and that they belonged to a lower strata of society and had clean antecedents, modified the order on sentence dated 23.05.2023 and sentenced the respondents without imposing any further custodial sentence beyond the period already undergone by them. The amount of compensation directed to be paid to the



victim was also reduced to a sum of Rs. 10,000/- by each of the respondents.

7. The State/ appellant has challenged the impugned order on sentence to the limited extent that the respondents were convicted for the offences under Sections 186/332/353/34 of the IPC and they have only been sentenced for the period already undergone, that is, approximately 10 days in case of Respondent No. 1 and 11 days in respect of Respondent No.2.

8. Learned Additional Public Prosecutor ('APP') for the State submits that the accused/ respondents have been let off even after committing such serious offences against a police officer and ought to have been adequately punished, to create a deterrent for the respondents.

9. She submits the present case was duly established with the help of credible and corroborated testimonies of the witnesses as well as the CCTV footage identifying the respondent at the place of the incident. She submits that the learned ASJ failed to appreciate the evidentiary value in the present case and erroneously reduced the sentence of the respondents.

10. She further submits that the delay of 310 days in filing the appeal was caused on account of procedural aspects, and the same ought to be condoned in the interest of justice.

11. I have heard the learned APP for the State and perused the record.

12. It is well settled that each day of the delay is required to be explained. No worthy reasons have been pleaded in the application seeking condonation of delay that would warrant this Court to condone the delay. The relevant portion of the application seeking condonation of delay is as under:



3. That the filing of the appeal has been delayed on account of many factors. The judgment was delivered on 27.04.2024. Thereafter, Sh. Mukul Kumar, Ld. Addl, Public Prosecutor applied for the certified Copy of the Judgment. The Certified copy of the Judgment and the order on sentence was received on 4.06.2024.

4. That after receiving certified copy of the Judgement the file was processed in the various departments of the Appellant for the opinion on the point of filing the appeal against the impugned judgement. That in said process, the file had to pass through various channels/tables of the concerned Officials of the prosecution department.

5. That on 05.06.2024 Ld. Additional Public Prosecutor sent the file to Chief prosecutor for some clarification. Thereafter, the same file was sent to Ms. Pumima Gupta (Chief Prosecutor) by Maqsood Ahmad Chief Prosecutor on 06.06.2024 and then the file was forwarded by Ms. Pumima Gupta (Chief Prosecutor) to Director of prosecution on 08.07.2024.

6. Further, the same file was sent to the Deputy Secretary on 22.07.2024. It is submitted that after extensive discussion of the matter, the file was sent to Special Secretary (Law, Justice & L.A) by Deputy Secretary (Law, Justice & L.A) on 14.08.2024 thereafter the matter was sent to the Principal Secretary on 25.11.2024.

7. That thereafter approval from the Director of prosecution obtained and, the file was referred to the Standing Counsel(criminal) by Director of . Prosecution on 20.12.2024.

8. Thereafter, the file was marked to Mrs. Meenakshi Dahiya Ld. APP on 28.02.2025. That due to the above-mentioned circumstances, administrative process and the moving of file from one table to another for requisite formalities; the limitation period expired and as such there is a delay in filing the present appeal. That thereafter, Ld. APP diligently took up the matter and drafted the accompanied appeal and sent the file to Police officials for the signatures on 24.04.2025 and the file was returned on 23.05.2025. that since the vacations had started the appeal could not have been filed and was filed immediately after reopening. Thus, approximately there is a delay of 310 days.

13. Apart from the usual excuses which are taken by the Government Departments, no worthy reason has been mentioned which would entitle the present application for condonation of delay. The application merely states that the impugned order on sentence was delivered on 27.04.2024 and the certified copy of the same was applied for, however it was made available to the



APP on 04.06.2024. It is stated that after various administrative process for requisite formalities, the Department of Prosecution obtained the file, whereafter the same was referred to the Standing Counsel (Criminal) on 20.12.2024, and marked to the learned APP on 28.02.2025. The State has failed to offer any justification for the inordinate delay in processing and forwarding the file within its own department.

14. This Court considers it apposite to briefly consider the merits in the present case. The allegation against the respondents is that when the victim, being a police constable, was removing the stalls which were coming on the road, a scuffle took place wherein he was beaten by an unlawful assembly of persons who work at the Teh Bazari, including the respondents herein.

15. The learned MM, in the judgement of conviction dated 24.02.2023 took note of the fact that all the witnesses examined by the prosecution are police witnesses and had entered the scene after the commission of the offence. It was further noted that the CCTV footage was unclear on the involvement of the other accused persons, however, the respondents were seen inflicting beatings upon the victim.

16. The learned ASJ in the impugned order on sentence noted that convicts belong to a lower strata of society, earning only about Rs. 6,000/- per month, and therefore, the amount of compensation direction to be paid by the learned MM was on the higher side. It was further noted that the convicts are first time offenders, and were facing trial for the last 10 years and had never remained absent during the same. Thus, considering the mitigating circumstances, the learned ASJ convicted the respondents for the period already undergone.



17. The offences for which the respondents have been convicted are undeniably grave and serious offences. The fact emerging from the record reveals that the respondents were present on the date of the incident and did in fact inflict beating upon the victim. The testimonies of the witnesses and the CCTV footage supports the case of the prosecution.

18. However, in evaluating the appropriateness of the sentence awarded, this Court is guided not merely by the seriousness of the charge but also by the conduct of the accused as well as legal basis of the conviction.

19. This Court is further guided by the law laid down by the Hon'ble Apex Court in ***Surinder Singh v. State (Union Territory of Chandigarh)* : (2021) 20 SCC 24**, which reaffirms that sentencing must be guided by the principle of proportionality. The Apex Court emphasized that the 'bedrock of sentencing policy' must account not only for the gravity of the offence but also for the conduct of the offender, his motive, and the likelihood of reformation. The relevant para of the judgment is reproduced hereunder:

*34. The equality of ratio between two sets of variables is now well known as the doctrine of proportionality. **The bedrock of sentencing policy in our criminal justice system is also based on the axiom of proportionality. This principle of commensurate sentencing treats offenders as agents capable of evaluating their own illegal conduct and the social censure associated with it, which is communicated to them by imposing a proportionate sentence. The exercise for assessing 'proportionality' is thus dependent upon the gravity of the offence which is determined according to - (a) mischief caused or risk involved in the offense; (b) the overall conduct of the offender and (c) motives ascribed to the felon.** Further, the equality of treatment so as to eliminate discriminatory practices in the award of sentencing, is integral to the canons of proportionality. Needless to say, the guarantee of even-handedness before the law(s), as enshrined in Article 14 of our Constitution, encompasses the administration of criminal justice system as well.*



35. Having said that we cannot be incognizant of the fact that there are practical difficulties in achieving absolute consistency in regards to sentencing. It must be candidly acknowledged that there is an element of discretion present while adjudicating the issue of sentence, however, the same cannot be exercised in an unprincipled manner. This Court has explicitly ruled out the practice of awarding disproportionate sentences, especially those that showcase undue leniency, for it would undermine the public confidence in efficacy of law.

36. The sentencing policy, therefore, keeps pace with changing time. Undoubtedly, the primary emphasis while deciding the quantum of sentence should lie on the gravity or penal value of the offense. However, other guiding elements of rehabilitative justice model, including, appreciation of grounds for mitigation of sentence also deserve to be duly considered within the permissible limits of judicial discretion. The awarding of just and proportionate sentence remains the solemn duty of the Courts, and they should not be swayed by nonrelevant factors while deciding the quantum of sentence. Naturally, what factors should be considered as 'relevant' or 'non-relevant' will depend on the facts and circumstances of each case, and no straight jacket formula can be laid down for the same."

(emphasis supplied)

20. Sentencing is not a mathematical exercise. It is a calibrated balance between the ends of justice and the reformation of the offender. This Court finds that the learned ASJ judiciously exercised its discretion after appreciating the totality of circumstances and the limited evidentiary basis of the conviction. The sentence awarded cannot be said to be manifestly inadequate or arbitrary so as to warrant interference in appellate jurisdiction.

21. Therefore, in view of the mitigating circumstances, the passage of time since the offence, the respondent's plea of guilt, and absence of aggravating conduct since then, this Court is of the considered opinion that no case for enhancement of sentence is made out.

22. Adverting to the present application seeking condonation of delay, it may be noted that the Hon'ble Apex Court has



repeatedly deprecated the practice adopted by Government departments in routinely seeking condonation without furnishing cogent reasons. The Hon'ble Apex Court, in the case of ***Postmaster General v. Living Media India Ltd. : (2012) 3 SCC 563***, had held that the Government cannot claim to have a separate period of limitation when the Department is possessed with competent persons familiar with court proceedings. The delay cannot be condoned mechanically merely because the Government or a wing of the Government is a party before the Court. The Hon'ble Apex Court had rejected the claim on account of impersonal machinery and bureaucratic methodology of making several notes in view of the modern technologies being used and available.

23. The Hon'ble Apex Court in the case of ***State of M.P. v. Bherulal : (2020) 10 SCC 654***, while observing the irony that no action is taken against the officers who sit on files and do nothing under a presumption that the court would condone the delay in routine, held as under:

"6. We are also of the view that the aforesaid approach is being adopted in what we have categorised earlier as "certificate cases". The object appears to be to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue and thus, say that nothing could be done because the highest Court has dismissed the appeal. It is to complete this formality and save the skin of officers who may be at default that such a process is followed. We have on earlier occasions also strongly deprecated such a practice and process. There seems to be no improvement. The purpose of coming to this Court is not to obtain such certificates and if the Government suffers losses, it is time when the officer concerned responsible for the same bears action is taken against the officers, who sit on the files and do nothing. It is presumed that this Court will condone the delay and even in making submissions, straightaway the counsel appear to address on merits without referring even to the aspect of limitation as happened in this case till we pointed out to the counsel that he must first address us on the question of limitation."



24. It is apparent that no explanation has been given for condoning the delay in filing the appeal.

25. The petition is, therefore, dismissed on the ground of delay as well as on merits.

26. Pending applications also stand disposed of.

AMIT MAHAJAN, J

JULY 29, 2025