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

+ CRL.A. 506/2016

SANJAY KUMAR

.....Appellant

Through: Mr.Kunal Yadav and Mr.Alok Kr.
Pandey, Advocates with appellant in person.

versus

THE STATE

.....Respondent

Through: Mr.Pradeep Gahalot, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **16.09.2025**

1. The present appeal has been instituted under Section 374 r/w 482 Cr.P.C. against the impugned judgment of conviction dated 02.04.2016 and order on sentence dated 27.04.2016, passed by the District and Sessions Judge, Karkardooma Courts, Delhi in Sessions Case No. 556/2016 arising out of FIR No. 429/2012 registered under Sections 308/509 IPC at P.S. Kalyanpuri, Delhi.

Vide the impugned order on sentence, the appellant was sentenced to undergo RI for a period of 6 years for the offence punishable under Section 509 IPC alongwith fine of Rs.5000/-, in default whereof he would undergo SI for 1 month, he was further sentenced to undergo imprisonment for a period of 3 months for the offence punishable under Section 323 IPC alongwith fine of Rs.1000/-, in default whereof he would undergo SI for a period of 15 days. The appellant was granted the benefit under Section 428 Cr.P.C.

The sentence of the appellant was suspended during the pendency of the present appeal vide order dated 26.05.2016.



2. The prosecution, in support of its case, examined a total of 11 witnesses. The material witnesses include the complainant, Udai Singh, examined as PW-1, who deposed that on the date of the incident around 7:30 PM, the appellant and his wife started abusing him, his wife(PW-6), and his children. When the complainant inquired, the appellant struck him on his head with a *danda* used for washing clothes(*thapi*). The appellant further abused and pushed PW6. By the time the PCR van arrived, the appellant had fled from the spot. In cross-examination, PW-1 clarified that his younger brother had taken away the appellant's niece.

The wife of the complainant/*Lata* was examined as PW-6, who is an eyewitness, had deposed on similar lines as to PW-1 and corroborated his testimony. She confirmed that the appellant misbehaved and scuffled with her, during which her shirt was torn from the shoulder side.

3. A perusal of the record indicates that as per the MLC, the appellant was found conscious and oriented, a lacerated wound on parietal region which has been opined to be 'simple' in nature, and the other injuries are abrasions. Further it is noted that the *thapi* used for the commission of the offence cannot be regarded as a dangerous weapon and only a single blow was inflicted upon the complainant. Therefore, no case is made out within the ambit of Section 308 IPC, and the offence stands proved only under Section 323 IPC. Both material witnesses have duly identified the appellant in Court, and their testimony is consistent, cogent and trustworthy. Further, the appellant used abusive language and misbehaved with PW6 which stands proved, thereby attracting Section 509 IPC. The defence plea of false implication due to the relationship of the appellant's niece with PW-1's brother is an unsubstantiated defence. Consequently, the conviction of the



appellant qua the offence under Section 323/509 IPC are upheld.

4. At this stage, the learned counsel for the appellant, on instructions from the appellant who is present in Court and duly identified by the I.O., submits that the appellant does not wish to press the present appeal on merits and instead prays that he be released on the period already undergone by him. The entire fine amount already stands paid by the receipt on record dated 27.04.2016.

5. Learned APP for the State, on instructions, submits that the appellant is not involved in any other case, a status report in this regard has been handed over and the same is taken on record.

6. The appellant is stated to be around 52 years of age who is working at a grocery shop and is the sole bread earner of his family, which comprises of his wife, a son and a daughter. His overall conduct in the Jail has been reported to be satisfactory. The appellant has faced trial since the year 2016.

7. Keeping in view of the aforesaid and as per the nominal roll which is handed over in court and taken on record, the substantive sentence of the appellant in the present appeal is modified to the period already undergone by him.

8. The present appeal is partly allowed and disposed of in the above terms. His bail bonds and surety stands cancelled.

9. A copy of this order be communicated to the Trial Court as well as concerned Jail Superintendent, for information and necessary compliance.

MANOJ KUMAR OHRI, J

SEPTEMBER 16, 2025

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