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

+ **CRL.A. 783/2016**

NEERAJ PAL

.....Appellant

Through: Appellant in person.

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State
with WSI Manisha PS Mandawali,
Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

09.10.2025

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1. The present appeal has been instituted under Section 374 Cr.P.C. against the judgment of conviction dated 08.04.2016 and order on sentence dated 21.04.2016, passed by the learned ASJ (FTC): E-Court, Shahdara District in Sessions Case No. 16/2013 arising out of FIR No. 176/2012 registered under Sections 308/34 IPC at P.S. Mandawli.

Vide the impugned order on sentence, the appellant herein was sentenced to undergo RI for a period of 5 years alongwith fine of Rs.10,000/-, in default whereof he would undergo SI for 1 month, for the offence punishable under Section 308/34 IPC. In addition, compensation of Rs.20,000/- was directed to be paid to the complainant, to be split equally between the appellant and his co-convict. In case of default of payment of compensation to the victim, the appellant was directed to undergo simple imprisonment for a period of 3 months.

2. The case of the prosecution in brief is that on 26.04.2012, the



appellant was quarrelling with one *Devraj* (PW-8), and when *Raju Pal* (PW-2) tried to intervene, the appellant started beating him instead. The appellant's brother, co-accused *Ketan Pal*, also reached the spot and both of them together gave beatings to *Raju Pal*, striking him repeatedly with a brick, targeting his head. When the complainant/*Narain Pal* (PW-1) tried to intervene, he was pushed aside, and both accused fled from the spot thereafter. The complainant then informed *Rohtash Pal* (PW-4), the brother of the injured, who reached the spot of the incident and removed the injured to the hospital, where his MLC (Ex. PW-3/A) recorded as many as eight injuries. The injuries sustained were opined to be grievous in nature and he was declared unfit for statement.

3. An FIR was registered on the complaint of *Narain Pal*. Upon completion of investigation, the chargesheet was filed, and the Trial Court subsequently framed charges under Sections 308/34 IPC, to which the appellant and his co-accused pleaded not guilty and claimed trial. The prosecution examined 14 witnesses in support of its case. The injured *Raju Pal* was examined as PW-2 and gave a clear and cogent account of the appellant and his co-accused giving him beatings with bricks. The complainant/*Narain Pal*, an eye-witness to the incident, was examined as PW-1, and his testimony was cumulative to that of the injured. The brother of the injured, *Rohtash Pal* (PW-4), stated that he reached the spot upon receiving a call from the complainant and removed the injured to the hospital. The I.O., SI *Om Prakash*, was examined as PW-14, and *Devraj*, with whom the initial quarrel is said to have taken place, was examined as PW-8. The remaining prosecution witnesses were police officials or medical professionals, whose evidence was more or less formal in nature.



4. In his statement under Section 313 Cr.P.C., the appellant generally denied all the allegations put to him. He stated that he had taken a loan from the complainant which he was unable to repay, and that he and his brother had been falsely implicated as a result. A hawker who used to sell eggs near the place of the incident was examined as DW-1. However, during cross-examination, DW-1 admitted that he had not witnessed the incident and had come to testify at the request of the appellant's father, who was his friend. His testimony was accordingly disbelieved and discarded by the Trial Court.

5. The injured witness (PW-2) deposed in clear terms that the appellant and the co-accused had given him beatings with bricks. He duly identified the appellant in Court, and there exists no dispute as to identity since they were known to each other prior to the incident. His testimony is clear, cogent, and consistent. It is settled law that an injured witness is a stamped witness and his testimony cannot be discarded lightly. In the present case, his version also stands fully corroborated by the testimony of the complainant/PW-1. Both witnesses stood firm in cross-examination and no material contradictions were elicited. The prosecution version is further supported on material particulars by PW-4, and the ocular evidence stands corroborated by the medical evidence on record.

6. On a perusal of the record, this Court is of the considered view that the omission to send the seized bricks or the clothes of the injured to the FSL or the mere fact that *Devraj* (PW-8) did not support the prosecution case, does not detract from the mutually corroborative testimonies of PW-1, PW-2, and PW-4, which inspire confidence. The plea of false implication on account of an alleged loan transaction is a bald assertion without any material to support it, and no plea of alibi was credibly set up by the



appellant. Having regard to the nature and number of injuries, the use of bricks as weapons, and the manner in which the beatings were inflicted, the ingredients of Section 308 read with Section 34 IPC stand established. Consequently, the conviction of the appellant is upheld qua the offence punishable under Section 308/34 IPC.

6. The appellant, duly identified by the I.O., is present in person. His gate pass has been handed over, and the same is taken on record. The appellant submits that he is remorseful and, being fully aware of the consequences, does not wish to press the present appeal on merits. He accepts his guilt and prays that the sentence awarded to him be modified to the period already undergone. He further prays that the fine imposed upon him be reduced from Rs.10,000/- to Rs.5,000/-.

7. Learned APP for the State has handed over a fresh nominal roll of the appellant, and the same is taken on record. He submits, on instructions, that the appellant has one prior involvement, namely FIR No. 02/2009 registered at P.S. Mandawali, which stands confirmed from the nominal roll. It is observed that the appellant was convicted in the said case and has already undergone the sentence imposed therein.

8. The nominal roll further reflects that the appellant has undergone 3 years, 5 months, and 6 days of incarceration in connection with the present case, along with having earned 3 months and 21 days of remission, against his total sentence of 5 years RI. His conduct in jail has also been reported to be satisfactory.

9. The law regarding release of convicts who have undergone more than half of their sentence was laid down by the Supreme Court in Sonadhar Vs. State of Chhattisgarh, reported as **2021 SCC OnLine SC 3683**, and the relevant portion of the same is extracted hereinunder:



“28. We thus issue the following directions:

- a) A similar exercise be undertaken by the High Court Legal Services Committee of different High Courts so that convicts represented by legal aid Advocates do not suffer due to delay in hearing of the appeals. NALSA will circulate this order to the concerned authority and monitor the exercise to be carried on.*
- b) The Delhi High Court Legal Services Committee would take up the cases of those convicts who have undergone more than half the sentence in case of fixed term sentences and examine the feasibility of filing bail applications before the High Court, while in case of ‘life sentence’ cases, such an exercise may be undertaken where eight years of actual custody has been undergone.*
- c) We are of the view that in fixed term sentence cases, an endeavor be made, at least as a pilot project, in these two High Courts to get in touch with the convicts and find out whether they are willing to accept their infractions and agree to disposal of the appeals on the basis of sentence undergone.*
- d) A similar exercise can be undertaken even in respect of ‘life sentence’ cases where the sentenced persons are entitled to remission of the remaining sentence i.e., whether they would still like to contest the appeals or the remission of sentence would be acceptable to such of the convicts.”*

10. The appellant, who is presently 39 years of age, has been facing the ordeal of a protracted trial since 2012. It is submitted that he belongs to a modest socio-economic background and has an aged mother, a wife, and two children dependent upon him.

11. Having regard to the fact that the incident pertains to the year 2012, and the facts and law as discussed above, the appellant’s prayer for modification of the sentence to the period already undergone is accepted. The conviction of the appellant under Section 308/34 IPC is upheld; however, the substantive sentence awarded to him is modified to the period already undergone by him.

The sentence of fine imposed upon the appellant is reduced from Rs.10,000/- to Rs.5,000/-, while the direction to pay compensation of Rs.10,000/- to the injured is maintained. The aforesaid amounts shall be



deposited before the Trial Court within four weeks. In default of payment of the fine or the compensation, the appellant shall undergo the respective default sentence as directed by the Trial Court.

12. The present appeal is partly allowed in the above terms.

13. A copy of this order be communicated to the Trial Court and the concerned Jail Superintendent.

MANOJ KUMAR OHRI, J

OCTOBER 9, 2025/nb