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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 913/2018 & CRL.M.A. 31560/2018**
STATE (GOVT OF NCT OF DELHI)Appellant

Through: Mr. Amit Ahlawat, APP.
SI Neeraj, P.S. Subzi Mandi, Delhi.

versus

GULAB SINGH MEHRARespondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
29.04.2025

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1. The State has filed the present appeal under Section 377 of the Code of Criminal Procedure, 1973¹ impugning judgment dated 3rd May, 2018 passed by ASJ, Central Tis Hazari Courts in Case Criminal Appeal No. 9/2016 titled as ***“Gulab Singh Mehra v. State & Anr”***. By the said order, on an appeal preferred by the Respondent against the judgement of conviction dated 25th January, 2016 and order on sentence dated 28th January, 2016 passed by the Trial Court, the Sessions Court reduced the quantum of sentence as well as the amount of fine. Although the Complainant is not aggrieved by the said order, the State has preferred the present appeal, assailing the reduction of the sentence.

2. Briefly stated, the case leading to the filing of the present appeal, is as follows:

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2.1. The present appeal arises out of FIR No. 279/2002 registered at Police Station Subzi Mandi under Sections 294 and 509 of the Indian Penal Code, 1860,² pursuant to a complaint dated 17th May, 2002 filed by Ms. Purnima Gupta, an Additional Public Prosecutor with the Government of NCT of Delhi. It was alleged that on 22nd February, 2001, at approximately 3:30 p.m., the Respondent used obscene language in the presence of the Complainant and other public persons in Room No. 159, the room of Mr. R.K. Jain, within the premises of Tis Hazari Courts.

2.2. Following investigation, the police filed a chargesheet against the Respondent under Sections 294, 509, 354, and 506 IPC. On 19th March, 2004, charges were framed against the Respondent under Sections 294 and 509 IPC.

2.3. Upon conclusion of the trial and after considering the evidence on record, the Trial Court, by its judgment dated 25th January, 2016, convicted the Respondent under Sections 294 and 509 IPC. By a subsequent order on sentence dated 28th January, 2016, the Respondent was sentenced to simple imprisonment for a period of three months for the offence under Section 509 IPC, and simple imprisonment for one month under Section 294 IPC. He was also directed to pay ₹20,000/- as compensation to the Complainant, failing which he would undergo simple imprisonment for a period of one month.

2.4. Aggrieved, the Respondent preferred an appeal against the said judgment of conviction and order on sentence before the Sessions Court. By the impugned order dated 3rd May, 2018, the Sessions Court upheld the conviction under Section 509 IPC, but acquitted the Respondent of the

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offence under Section 294 IPC. Further, the sentence was modified from SI of three months to imprisonment till rising of the court. along with a fine of ₹5,000/-, with a default sentence of simple imprisonment for a period of one month.

3. Aggrieved, the State has filed the instant petition seeking setting aside of the impugned order. At the outset, Mr. Amit Ahlawat, APP for the State, submits that the challenge is confined to the reduction of sentence by the Sessions Court. He contends that Section 509 of IPC prescribes a punishment of imprisonment for a term which may extend to three years, along with fine. However, the Sessions Court, while upholding the conviction, reduced the sentence to imprisonment till the rising of the court and imposed a nominal fine of ₹5,000/-, with a default sentence of simple imprisonment for one month. He submits that such a lenient sentence reflects unwarranted and unjustified sympathy towards the Respondent, which not only undermines the legislative intent, but also fails to serve the object of deterrence, especially in cases involving harassment of women at the workplace. He further submits that the Sessions Court failed to appreciate the law laid down in case *State of Rajasthan v. Zamil*,³ that “.....awarding of lesser sentence without any justified reason would encourage the crime of harassment of working women at work place.”

4. The Court has duly considered the submissions advanced by the State. Upon a reappraisal of the entire evidence on record, the Sessions Court concluded that the Respondent had indeed used abusive language which caused humiliation, insult, and annoyance to the Complainant. In view of these observations, and finding no merit in the grounds raised by the

³2013 10 SGG 721.

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Respondent in appeal, the Sessions Court upheld the judgment of the Trial Court convicting the Respondent under Section 509 IPC. However, the Sessions Court observed that since the incident took place in the office of Mr. R.K. Jain, a location that could not be considered a public place, the offence did not fall within the ambit of Section 294 IPC. Since the requirement under Section 294 IPC, that the obscene act or utterance must occur in a public place, was not fulfilled, the conviction under that provision was set aside.

5. In light of the above findings, the Sessions Court proceeded to examine whether the sentence awarded was commensurate to the allegations that stood proved. On the issue of sentencing, the Sessions Court concluded that the amount of compensation awarded by the Trial Court should be reduced to ₹5,000/-, and further modified the sentence of three months' simple imprisonment to imprisonment till the rising of the Court. The legal position regarding the factors to be considered while sentencing an accused is well-settled. In ***Soman v. State of Kerala***,⁴ the Supreme Court delineated the key principles that ought to guide sentencing decisions:

“27.1. Courts ought to base sentencing decisions on various different rationales – most prominent amongst which would be proportionality and deterrence.

27.2. The question of consequences of criminal action can be relevant from both a proportionality and deterrence standpoint.

27.3. Insofar as proportionality is concerned, the sentence must be commensurate with the seriousness or gravity of the offence.

27.4. One of the factors relevant for judging seriousness of the offence is the consequences resulting from it.

27.5. Unintended consequences/harm may still be properly attributed to the offender if they were reasonably foreseeable.....”

6. Upon analysing the facts of the present case in light of the above

⁴(2013) 11 SCC 382

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principles, it is evident that the Sessions Court took into account all relevant considerations before modifying the sentence imposed by the Trial Court. The relevant observations of the Sessions Court are extracted hereinbelow:

“Now I take up the question of sentence, The appellant was sentenced by Ld. Metropolitan Magistrate to Simple Imprisonment for three months under Sec.509 IPC and he was directed to pay compensation of a sum of Rs.20,000/- to the complainant. In this regard, I would like to refer to the conduct of Ms. P. during the trial, which is recorded by the Presiding Officer in the ordersheet dated 08.09.2004. In this ordersheet, it is mentioned by Ms. Savita Rao, Ld. M.M. that the complainant had moved an application for substitution of Public Prosecutor by her private counsel, which was dismissed by the said court. On this, complainant was heard saying that the Presiding Officer also belonged to Scheduled Caste community whereas accused also belongs to Scheduled Caste, which led to dismissal of the application. Due to the conduct of the complainant during the trial, I am not inclined to grant any compensation to her. Rather the prosecution department is directed to bring the casteist and contemptuous conduct of Ms. P. to the Government of NCT of Delhi as recorded by Ld. M.M. in ordersheet dated 08.09.2004 during trial. Such conduct of a public functionary, which Ms. P. is, must not be ignored. Therefore, copy of this judgment alongwith the copy of the ordersheet dated 08.09.2004 be supplied to the Directorate of Prosecution, who shall forward it to Government of NCT for taking appropriate departmental action as per rules against Ms, P.

The appellant in the present case has lost his job due to the present incident, which is a big punishment. Considering all facts and circumstances, I modify the sentence awarded by the Trial Court and I sentence him to imprisonment till rising of the court and a fine in the sum of Rs.5000/-, In default of payment of fine, he shall undergo Simple Imprisonment for one month. The appellant had deposited a sum of Rs.20,000/- as compensation in the Trial Court vide Receipt No. dated 29.01.2016. Ld. Metropolitan Magistrate shall return to the appellant remaining amount of Rs.15,000/- as per rules and treat the amount of Rs.5000/- as fine instead of compensation.”

7. A perusal of the aforesaid observations clearly indicates that the Sessions Court duly considered the relevant circumstances, including the gravity of the offence, the nature of the incident, and the conduct of the

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Complainant, while deciding to modify the quantum of sentence. The Sessions Court took note of the casteist and contemptuous behaviour exhibited by the Complainant towards both the Respondent and the Presiding Officer—who belonged to the Scheduled Caste community. Therefore, in light of this conduct, the Sessions Court correctly held that the Complainant was not entitled to receive compensation. Additionally, it must be noted that the Respondent had lost his employment as a direct consequence of the proceedings arising from the incident, which the Sessions Court viewed as a substantial punishment in itself. Having regard to the totality of the circumstances, this Court is of the considered view that the Sessions Court's decision to reduce the sentence is well-reasoned, and based on a holistic assessment of all relevant factors, including the gravity of the offence, the conduct of the Complainant, and the consequences already endured by the Respondent as a result of the alleged incident.

8. Having regard to the aforesaid legal principles as elucidated by the Supreme Court, the Court is of the opinion that the findings recorded by the Sessions Court do not warrant any interference.

9. Accordingly, the present appeal, along with all pending applications, stands dismissed.

SANJEEV NARULA, J

APRIL 29, 2025/as

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