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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.A. 1007/2018

HIMANSHU @ RINKU

.....Appellant

Through: Mr. Archit Upadhyay, Advocate with
appellant in person.

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

15.12.2025

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1. By way of the present appeal the appellant seeks to assail the judgement of conviction dated 28.05.2018 and order on sentence dated 08.06.2018 passed by the learned ASJ(03), Saket Courts, Delhi in Sessions Case No. 6480/16(Old no. 480/16), arising out of FIR No. 479/2013 registered under Section 324/34 IPC at P.S. Neb Sarai, Delhi. By the impugned judgment, the appellant was held guilty for the offences punishable under Sections 307 IPC.

2. Vide the order on sentence, the appellant was sentenced to RI for a period of 3 years alongwith fine of Rs.15,000/-, out of which Rs.10,000/- shall be released to the complainant as compensation and Rs.5,000/- will be deposited with the court, and in default SI for 3 months for the offence punishable under Section 307 IPC. He was further sentenced to undergo SI for a period of 1 month for the offence punishable under Section 341 IPC.



All sentences were directed to run concurrently, with benefit of Section 428 Cr.P.C.

During the pendency of the appeal, the sentence imposed upon the appellant was suspended vide order dated 29.11.2018

3. Briefly put, the case of the prosecution is that on the intervening night of 10/11.10.2013, a call vide DD No. 45A regarding a stabbing incident was received, pursuant to which the IO, SI Vivek Malik, along with Ct. Deepak, reached the spot at Asthal Mandir Road, Sangam Vihar, New Delhi. At the spot, it was learnt that the injured had already been shifted to Batra Hospital and no eyewitness was found present.

Thereafter, the IO visited Batra Hospital, collected the MLC of the injured and later on recorded his statement. The injured stated that he was running a mobile shop in J Block, Sangam Vihar. On the night of 10/11.10.2013 at about 10:00 PM, after closing his shop, he was proceeding towards his house when, upon reaching near Asthal Mandir Road, he noticed *Rinku* and *Sahil* standing at the corner alongwith their other associates. *Rinku*, a resident of J.J. Colony, Khanpur, was known to the complainant as a friend. It is alleged that suddenly *Rinku* stopped the complainant and attacked him with a knife, causing injuries on his chest and back. When the complainant attempted to flee, *Sahil* chased him and the associates present at the spot instigated *Rinku* to kill the complainant. Somehow, the complainant managed to escape and made a call to the police at 100 number. Thereafter, while reaching in front of a house near Asthal Mandir Road, he became unconscious, whereupon some public persons gathered at the spot. Subsequently, the PCR arrived and the complainant was shifted to Batra Hospital.



4. In support of its case, the prosecution examined 12 witnesses, including the complainant, *Vikas*, who was examined as PW-2. Dr. *Sajid Khan*, who examined the complainant and prepared the MLC, was examined as PW-3. *Ajay*, the brother of the complainant, who was examined as PW-9. The rest of the witnesses were formal in nature and deposed as to various aspects of the investigation.

The appellant was examined under Section 313 Cr.P.C., wherein he denied all incriminating circumstances and claimed false implication. He did not lead any defence evidence.

5. A perusal of the record indicates that the testimony of the injured witness PW-2 is cogent, credible and inspires confidence. The appellant was known to PW-2 prior to the incident and was correctly identified by him before the Court. The version of PW-2 stands duly corroborated by the MLC Ex. PW3/A proved by PW-3, which records incised wounds on the anterior chest wall and the back, fully consistent with the manner of assault described by the injured. It is further noted that the immediate disclosure made by the injured, proved through PW-8, as well as the DD entries and the PCR form, clearly name the appellant as the assailant, thereby ruling out any possibility of false implication. It is further noted that the conduct of the appellant in voluntarily obstructing the victim and preventing him from proceeding in the direction in which he had a right to proceed, and thereafter attacking him with a knife on a vital part of the body, clearly demonstrates the requisite intention and knowledge for the commission of the offence. The defence version of accidental injuries or false implication has remained unsubstantiated and unsupported by any material on record.



Having considered the material placed on record, this Court concurs with the findings of the trial court and finds no grounds to interfere with the same are made out. Consequently, the conviction of the appellant is upheld qua the offence under Section 341/307 IPC.

6. Learned Counsel for the appellant, on instruction from the appellant, who is present in court and has handed over his gate pass which is taken on record, submits that being fully aware of the consequences, he does not wish to press the present appeal on merits. He prays that since the appellant having undergone more than half his sentence, be released on the period already undergone by him in custody.

7. Learned APP for the State, on instructions, submits that the appellant has other involvements, but the said cases are either pending trial or he is out on bail.

8. The nominal roll of the appellant which reflects that the appellant has undergone about 2 year including remission earned. His conduct in jail has been noted as satisfactory.

9. The law regarding release of the appellant in cases where the convict has undergone more than half of the 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 is 37 years of age, is the sole breadwinner of his family, and bears the responsibility of his wife. The matter has been pending since 2013, and the appellant has remained on bail throughout.

11. Keeping in view of the facts and circumstances noted hereinabove as well as decision in Sonadhar (Supra), the substantive sentence of the appellant in the present appeal is hereby modified to the period already undergone by him.

The sentence on default of payment of fine alongwith the default sentence, however, is maintained. Learned counsel for the appellant submits that the appellant has already deposited the fine imposed by the Trial Court and will furnish the receipt of the same to the concerned IO. In case the fine remains to be paid, the same shall be paid within a period of six weeks from today, and the compensation amount will be released to the victim, failing which the appellant will undergo the default sentence in lieu thereof.

12. Subject to deposit of fine amount, the personal bond furnished by the appellant stands cancelled and the sureties are discharged.

13. The present appeal is partly allowed and disposed of in the above terms.



14. A copy of this order be communicated to the concerned Jail Superintendent as well as to the Trial Court.

MANOJ KUMAR OHRI, J

DECEMBER 15, 2025/rd