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

+ CRL.A. 661/2017

SADDAM @ PAUDHA & ORS

.....Appellants

Through: Mr.Rajiv Ranjan Mishra with Mr.
Saurabh and Ms. Suruchi Yadav,
Advocates.

versus

STATE

.....Respondent

Through: Mr Pradeep Gahalot, APP for State

\$~24

+ CRL.A. 769/2017

RAHUL

.....Appellant

Through: Counsel for appellant,
appearance not given

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr Pradeep Gahalot, APP for State

\$~25

+ CRL.A. 803/2017

VIKRAM @ SONU

.....Appellant

Through: Counsel for appellant,
appearance not given

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr Pradeep Gahalot, APP for State

\$~26

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+ CRL.A. 213/2018

DHARAMVIR

.....Appellant

Through: Counsel for appellant,



appearance not given.

versus

THE STATE GOVT OF NCT OF DELHIRespondent
Through: Mr Pradeep Gahalot, APP for State

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI
ORDER
04.11.2025

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1. The present appeals have been filed under Section 374(2) of the Code of Criminal Procedure, 1973, assailing the judgment of conviction dated 16.05.2017 and the order on sentence dated 27.05.2017 passed by the learned ASJ-03 (North-East), Karkardooma Courts, Delhi, in Sessions Case No. 44915/2015 arising out of FIR No. 699/2014 registered at P.S. Khajuri Khas.
2. By the order on sentence dated 27.05.2017, the Trial Court sentenced all five convicts, namely Saddam @ Paudha, Shakir, Rahul, Vikram @ Sonu and Dharamveer, to undergo rigorous imprisonment for a period of five years each under Sections 452/34 and 307/34 IPC, along with a fine of Rs. 2,000/- and Rs.5,000/- respectively on each count, and in default of payment of fine, to further undergo simple imprisonment for six months on each count. They were additionally sentenced to simple imprisonment for six months under Section 323/34 IPC. All substantive sentences were directed to run concurrently, with the benefit of Section 428 Cr.P.C.
3. In CRL.A. 661/2017 appellant Saddam @ Paudha, was granted bail vide order dated 12.05.2020 and released on 14.05.2020. Appellant Shakir



was released from jail on 15.08.2020 after completion of his sentence. In CRL.A. 769/2017 the appellant Rahul was granted bail vide order dated 02.06.2020 and released on 13.07.2020. In CRL.A. 803/2017 the appellant Vikram @ Sonu was released from jail on completion of his sentence on 08.04.2020. In CRL.A. 213/2018 the appellant Dharamveer was released from jail on completion of his sentence on 19.11.2020.

4. Briefly stated, the case of the prosecution was that on 10.07.2014, at about 12:00 noon, complainant Rohtash and his friend Surender were attacked by the appellants and their associates at Rohtash's residence. It was alleged that appellant Saddam @ Paudha, armed with a firearm, fired two shots aiming at the complainant, while the co-accused Rahul, Vikram @ Sonu and Dharamvir assaulted him and Surender with a *chhapar*, causing head injuries. Accused Shakir was also alleged to have accompanied them. The public intervened, and three of the accused were apprehended on the spot, two of them fled but were later arrested. The charges were framed on 13.01.2015.

5. During trial, the prosecution examined thirteen witnesses in total, including the two injured eyewitnesses Rohtash (PW-10) and Surender (PW-9). The injured witnesses gave a consistent account of the incident, identifying all five accused and assigning them distinct roles in the assault. They deposed that accused Saddam @ Paudha had fired at them with a pistol, while the remaining accused Rahul, Dharamveer, Vikram @ Sonu and Shakir had entered the house and assaulted them with sharp-edged weapons, including a *chhapar* and *sua*. Their testimonies were corroborated by the medical evidence, which confirmed simple incised wounds on both of the injured persons caused by a sharp object. The prosecution also proved



the recovery of fired cartridge cases, bullet leads, and a *chhapar* from the spot. The remaining witnesses were formal in nature and proved various steps of investigation.

6. During their examination under Section 313 Cr.P.C., all the appellants denied the incriminating evidence and claimed false implication. Accused Saddam @ Paudha alleged that the complainant had falsely implicated him over a prior dispute, while the others stated that they had been wrongly arrested. Except for Saddam @ Paudha, who examined himself and one witness in defence, no evidence was led on behalf of the remaining appellants.

7. Upon appreciation of evidence, the Trial Court held that the testimonies of the injured witnesses were consistent and sufficiently corroborated by the medical and documentary evidence on record. The Court observed that the absence of weapon recovery did not vitiate the prosecution case, as the essential elements of house-trespass and attempt to murder stood proved beyond reasonable doubt. Consequently, all five accused were convicted under Sections 452/307/323/34 IPC.

8. This Court has perused the record and the judgment of the learned Trial Court. The conviction of the appellants rests primarily on the direct and cogent testimonies of the injured eye-witnesses (PW-9 and PW-10), duly supported by the investigating officer and corroborated through medical evidence. The Trial Court's findings are reasoned, and no perversity is discernible warranting interference with the conviction. Accordingly, the conviction is affirmed.

9. The appellants are all present in person in Court and learned counsels appearing for the appellants submit on instructions from the appellants that



having understood the consequences, they do not wish to press their appeals on merits and confine their submissions to the quantum of sentence. It is prayed that the appeals be disposed of in terms of the period of incarceration already undergone by the appellants.

10. Learned APP for the State has handed over the fresh nominal rolls of all the appellants, which are taken on record.

11. The nominal roll dated 03.11.2025 in respect of appellant Saddam @ Paudha reflects that he has undergone about four years of the total five-year sentence, including remission. The nominal roll notes that while the appellant has other criminal involvements, those are stated to have resulted in acquittal or are cases in which he is still under trial. The fine amount has not been deposited by him.

12. The nominal roll dated 03.11.2025 pertaining to appellant Shakir records that he has undergone the entire sentence awarded to him, paid the fine, and was released from jail after completion of his sentence on 15.08.2020. The nominal roll records no other involvements. His gate pass has been taken on record.

13. As per the nominal roll dated 03.11.2025 pertaining to appellant Rahul, he has undergone approximately four years and three months of the total sentence including remission. He was granted bail vide order dated 02.06.2020 and was released on 13.07.2020. The nominal roll records no other involvements. The fine amount remains unpaid.

14. As per the nominal roll dated 03.11.2025 in respect of the appellant Vikram @ Sonu the appellant has undergone the entire sentence imposed upon him and has also paid the fine. He was released from jail on 08.04.2020 after completion of his sentence. The nominal roll records no



other involvements.

15. As per the nominal roll dated 03.11.2025 in respect of appellant Dharamveer, the appellant has completed his entire sentence and paid the fine. He was released from jail on 19.11.2020 upon completion of the sentence. The nominal roll further records that he has no other involvements.

16. The law with regard to 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 v. State of Chhattisgarh decided on 06.10.2021, in **SLP (CRL)No. 529/2021** the relevant portion of the same is extracted hereinunder:

'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 endeavour 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.



Our aforesaid additional directions are based on a premise that at times if a convict has actually done of what he is accused of and he is remorseful, he may be willing to accept his acts and suffer a lesser sentence. We make it clear that the objective is not to compel or extract acceptance from such convicts depriving of the right of appeal.'

17. This Court has carefully perused the record and the judgment of the learned Trial Court. The conviction of the appellants rests upon the cogent and corroborated testimonies of the injured witnesses, Rohtash (PW-10) and Surender (PW-9), duly supported by the medical and documentary evidence, as well as the recoveries effected from the spot. The findings of the Trial Court suffer from no infirmity warranting interference and are accordingly affirmed.

18. Having regard to the mitigating circumstances, including the age of the appellants, and the period already undergone by each of them, it is noted that appellants Vikram @ Sonu, Dharamveer, and Shakir have completed their entire substantive sentence and deposited the fine amount imposed by the Trial Court. As regards the appellants Saddam @ Paudha and Rahul, both have undergone approximately four years and four years and three months respectively, including remission, out of the total sentence of five years, and are presently on bail. In these circumstances, and considering that they have already undergone a substantial portion of the sentence, this Court is of the considered view that the ends of justice would be met if their substantive sentence is confined to the period already undergone.

19. Consequently, while upholding the conviction of all five appellants for the offences under Sections 452/307/323/34 IPC, the substantive sentence imposed upon Saddam @ Paudha and Rahul is modified to the period already undergone. Both these appellants are, however, directed to



deposit the fine amount of Rs. 7,000/- each before the Trial Court within four weeks from today, and furnish proof of deposit to the IO concerned. In default of payment of fine, they shall undergo the respective default sentence as directed by the Trial Court. The bail bonds furnished by them shall stand cancelled and sureties discharged upon such payment.

20. With respect to the remaining appellants Vikram @ Sonu, Dharamveer, and Shakir who have completed their entire sentence and paid the fine, the appeals are disposed of as not pressed in view of their statements in Court.

21. The appeals are accordingly partly allowed and disposed of in the above terms. The pending applications, if any, also stand disposed of.

22. A copy of this judgment be transmitted to the concerned Trial Court and the Jail Superintendent for information and necessary compliance.

MANOJ KUMAR OHRI, J

NOVEMBER 4, 2025

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