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

+ CRL.A. 951/2018

MEHTAB @ MEHBOOB KHAN

.....Appellant

Through: Counsel for appellant, appearance not  
given, with appellant through VC.

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Ms.Shubhi Gupta, APP for State with  
SI Gaurav, P.S. Kalyanpuri, Delhi.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**ORDER**

**11.12.2025**

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1. By way of the present appeal under Section 374(2) Cr.P.C., the appellant *Mehtab @ Mehboob Khan* seeks to assail the judgment of conviction dated 30.08.2018 and the order on sentence dated 04.09.2018, passed by the learned Additional Sessions Judge-03 (East), Karkardooma Courts, Delhi, in Sessions Case No. 2086/2016, arising out of FIR No. 182/2016, registered at P.S. Kalyanpuri. Vide the impugned judgment, the appellant was acquitted of the charges under Sections 307/34 IPC and 506 (Part-II) IPC, but was convicted for the offences punishable under Sections 324 and 325 read with Section 34 IPC.

2. Vide the impugned order on sentence dated 04.09.2018, for the offence punishable under Section 325 read with Section 34 IPC the appellant was sentenced to undergo imprisonment to the period already undergone along with a fine of Rs. 50,000/-, in default to undergo Simple Imprisonment for three months, and for the offence punishable under Section 324 read with Section 34 IPC Simple Imprisonment for one year with a fine of Rs. 10,000/-, in default to undergo Simple Imprisonment for one month. Both



sentences were directed to run concurrently, and the benefit of Section 428 Cr.P.C. was extended to the appellant.

3. It is noted that the sentence of the appellant was suspended by this Court vide order dated 25.09.2018, pursuant to which the appellant was released on suspension of sentence.

4. Briefly stated, the case of the prosecution was that on 24.04.2016, a quarrel took place in the *jhuggi* cluster at *Khichripur*, Delhi, allegedly over parking of a cycle rickshaw near a public water tap. It was alleged that the appellant, along with co-accused *Abid* and others, assaulted the complainant *Pramod* and his brothers *Vinod* and *Sanoj* with knives, causing injuries. The injured persons were removed to LBS Hospital, where their medical examination was conducted.

5. During trial, the prosecution examined ten witnesses, including the three injured witnesses (PW-1 *Pramod*, PW-2 *Vinod* and PW-3 *Sanoj*), medical witnesses PW4 and PW5 who proved the MLCs, and opined that the medical evidence reflected that *Vinod* sustained a “*grievous*” injury, while *Pramod* and *Sanoj* sustained “*simple*” injuries. The rest of the witnesses were police and formal witnesses associated with registration of the FIR and other aspects of the investigation.

6. In his statement under Section 313 Cr.P.C., the appellant denied the allegations and claimed false implication, asserting that he was not present at the spot and had been roped in due to his relationship with the co-accused. The appellant did not lead any defense evidence.

7. Upon appreciation of the evidence, the learned Trial Court held that the prosecution had failed to establish the intention or knowledge necessary to attract Section 307 IPC, and accordingly acquitted all accused of the said



charge. However, relying upon the consistent testimony of the injured witnesses and the medical evidence, the Trial Court concluded that the prosecution had proved beyond reasonable doubt that the appellant had shared common intention in voluntarily causing grievous and simple hurt and consequently convicted him under Sections 324/325 read with Section 34 IPC.

8. On a perusal of the record, this Court finds no perversity in the appreciation of evidence or the findings returned by the Trial Court. The conviction of the appellant under Sections 324 and 325 read with Section 34 IPC is, accordingly, upheld.

9. Learned counsel for the appellant, who appears with the appellant present through VC and is duly identified by the IO, submits that the appellant does not wish to press the present appeal on merits and confines his submissions to the limited prayer of modification of sentence to the period already undergone. It is submitted that the appellant has already undergone a substantial portion of the sentence awarded to him and has remained on bail without any misuse of liberty. He also submits that the appellant has deposited the fine amount as directed.

10. Learned APP for the State submits on instructions from the IO, that the appellant has no other criminal antecedents or pending cases.

11. As per the Nominal roll on record, the appellant has undergone a total period of custody of approximately ten months. The nominal roll further records that the appellant has no other pending cases, his jail conduct has remained satisfactory, and that he has paid the fine amount.

12. 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<sup>1</sup> 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.'*

13. Upon a careful examination of the material on record, this Court finds no perversity in the appreciation of evidence by the Trial Court insofar as the conviction of the appellant under Sections 324 and 325 read with Section 34 IPC is concerned, and the said conviction is accordingly affirmed.

14. Insofar as the question of sentence is concerned, it is noted that the appellant comes from an economically weak background and is the sole earning member of his family. The appellant has dependents including his wife, minor children, mother, two sisters and two brothers. It is further noted that the appellant has clean antecedents and has already undergone

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<sup>1</sup> decided on 06.10.2021, in SLP (CRL)No. 529/2021



substantial incarceration during investigation and trial. The nominal roll placed on record reflects satisfactory jail conduct, and the fine imposed by the learned Trial Court stands duly paid, receipt whereof is on record.

15. Having regard to the nature of the offence, the period of incarceration already undergone, the mitigating circumstances noted above, this Court is of the considered view that the ends of justice would be adequately met by modifying the substantive sentence imposed upon the appellant to the period already undergone.

16. Consequently, while affirming the conviction of the appellant under Sections 324/325 read with Section 34 IPC, the substantive sentence imposed vide the order on sentence dated 04.09.2018 is modified to the period already undergone. The sentence of fine imposed by the Trial Court shall remain undisturbed.

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

18. The bail bonds furnished by the appellant stand cancelled and his sureties are discharged.

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

**MANOJ KUMAR OHRI, J**

**DECEMBER 11, 2025**

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