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

+ **CRL.A. 1118/2018**

VENKATESH @ PICHI

.....Appellant

Through: Mr. Surya Shekhar Kumar, Advocate
Appellant in person (through VC)

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

19.12.2025

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1. By way of present appeal, the appellant seeks to assail the judgement of conviction dated 19.09.2018 and order on sentence dated 26.09.2018 passed by ASJ-04 & Special Judge (NDPS), South-East District, Saket Courts, New Delhi, in SC No. 2227/2016 arising out of FIR No. 73/2012 registered under Sections 186/353/307 IPC at P.S. Ambedkar Nagar, Delhi.
2. Vide the impugned order on sentence, the appellant was sentenced to undergo RI for a period of 1 year with a fine of Rs.2,000/-, in default thereof to undergo further SI for a period of 1 month for the offence punishable under Section 353 IPC. He is sentenced to undergo RI for a period of 3 years alongwith fine of Rs.5,000/- in default thereof to undergo further SI for a period of 3 months for the offence punishable under Section 307 IPC. The benefit of Section 428 Cr.P.C. was granted to the appellant.



The sentence of the appellant was suspended during pendency of the present appeal by this Court vide order dated 03.04.2019.

3. Briefly put, the case of the prosecution is that on 18.03.2012, Ct. Jaldhari and HC Brahmanand were on night patrol duty from 8:00 PM to 8:00 AM on motorcycle No. DL-1SN-8309, with Ct. Jaldhari riding the motorcycle and HC Brahmanand seated as pillion rider. At about 9:50 PM, when they reached H-1st, Madangir, in front of Jal Board Pump House, New Delhi, they noticed a crowd creating nuisance and causing inconvenience to passers-by. The police officials stopped their motorcycle and HC Brahmanand asked the persons present to disperse. This enraged the appellant, who started arguing with and abusing HC Brahmanand. Despite being asked to leave, the appellant refused and threatened the police officials, questioning their presence in his locality. The appellant then picked up a piece of brick and struck HC Brahmanand, causing him to sustain injuries and fall on the road. Beat staff reached the spot and attempted to apprehend the appellant, but he managed to escape. Subsequently, the ERV reached the spot, and the injured HC Brahmanand was shifted to the hospital for medical treatment.

4. In support of its case, the prosecution examined 19 witnesses, including eye witness, Ct. Jaldhari, examined as PW-7. The injured, HC Bhramanand, examined as PW-8. Dr. Arun Iyer, proved the MLC of the injured, examined as PW-6. The rest of the witnesses were formal in nature and deposed as to various aspects of the investigation.

The appellant were examined under Section 313 Cr.P.C., wherein they denied all incriminating circumstances and claimed false implication.



5. A perusal of the record indicates that the testimony of the injured witness, PW-8, is cogent, credible and inspires confidence. PW-8 has given a clear and consistent account of the incident, deposing that while he was discharging his official duty on patrol alongwith PW-7. PW-8 correctly identified appellant in Court. The version of PW-8 stands duly corroborated by the testimony of PW-7 and PW-13, both eyewitnesses to the occurrence, who have consistently deposed regarding the incident. The prosecution case is further corroborated by the medical evidence, the MLC of PW-8 records dangerous injuries sustained by him, and the opinion that such injuries could be caused by a brick. It is also corroborated by the recovery of the brick used as the weapon of offence at the instance of the appellant. The defence plea of false implication has remained unsubstantiated.

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 307/353 IPC.

6. Learned counsel appearing for the appellant, on instructions from the appellant, being fully aware of the consequences, does not wish to press the present appeal on merits. It is accordingly prayed that the appellant be released on the period already undergone by him in custody. It is further submitted that all the appellant have undergone more than half the sentence and the fine imposed upon him has been deposited and the receipt has already been placed on record.



7. Learned APP for the State, has handed over status report which is taken on record. As per which the appellant is not involved in any other case.
8. The nominal roll of the appellant has been handed over and taken on record. It reflects that the appellant has undergone about 2 years and 3 months and his conduct in jail has been noted to be 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 aged 45 years old, is running a tea stall and is the sole breadwinner of his family, and bears the responsibility of his wife and 2 children.



11. Keeping in view of the facts and circumstances noted hereinabove, the fine paid and the matter has been pending since 2016 as well as the decision in Sonadhar (Supra), the substantive sentence of the appellant is hereby modified to the period already undergone by them.

12. 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 19, 2025

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