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

**Date of Decision: 22.02.2023**

+ CRL.A. 707/2009

DEEPAK @ MONU ..... Appellant

Through: Mr. Rajesh Kumar, Advocate  
alongwith appellant in person

versus

STATE ..... Respondent

Through: Mr. Naresh Kumar Chahar,  
APP for the State with SI  
Pankaj, P.S. Ambedkar Nagar.

**CORAM:**

**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**

**JUDGMENT**

**SWARANA KANTA SHARMA, J. (ORAL)**

1. The present appeal under Section 374 read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed by appellant against the judgment dated 22.08.2009 and order on sentence dated 27.08.2009 passed by learned Additional Sessions Judge, Patiala House Courts, New Delhi in SC No. 10/08 titled '*State Vs. Deepak @ Monu & Ors.*' being FIR bearing no. 452/2005, registered at Police Station Ambedkar Nagar, New Delhi for committing offences punishable under Sections 308/34 of the Indian Penal Code, 1860 ('IPC').

2. The present appeal was admitted *vide* order dated 22.09.2009 and the sentence of appellant was suspended *vide* order dated 22.09.2009 by this Court.

3. The facts of the present case are that on 16.07.2005 at about 9.00 P.M, complainant Sunil was going to Bhola General Store for purchasing household articles. On the way accused Monu and Sanjay @ Tinda (known to complainant), had met him. They had asked the complainant to accompany them into the park for some work. On refusal by the complainant, accused Sanjay had placed knife against his stomach and had threatened to kill him. Accused persons had taken the complainant to E-II Block Park and on the way other accused persons namely Mukesh, Avinash and Sandeep @ Kekari had also met them. All the five accused persons had started beating the complainant with fists and blows, whereas accused Sanjay had caught hold of the complainant's hands and accused Monu had hit the complainant with a rod on his head. He had become unconscious and had regained his consciousness in AIIMS hospital. Thereafter, based on the complaint, an FIR bearing no. 452/2005 was registered against the appellants and other co-accused for the offences punishable under Sections 308/34 of IPC.

4. The learned Trial Court, *vide* judgment dated 22.08.2009 convicted the appellant for offences punishable under Section 324/34 of IPC and sentenced him to undergo rigorous imprisonment for one year and fine of Rs.10,000/-, and in default of payment of fine, to undergo simple imprisonment for three months. Learned Trial Court also directed that after depositing fine amount of Rs.10,000/- by the

appellant, half of the amount be given to the complainant as compensation.

5. At the outset, learned counsel for appellant, upon instructions, submits that the appellant does not propose to assail the impugned judgment on merits and would like to confine the submissions in this appeal, to the point of sentence alone. It is stated that since the incident in the present case is 17 years old, the sentence of the appellants be reduced to the period already undergone by him.

6. Learned APP for state has argued to the contrary.

7. This Court has heard the parties and perused the material on record.

8. In the present case, the incident in question had taken place on 16.07.2005 and appellant was convicted by the learned Trial Court on 22.08.2009, whereby he was sentenced to undergo rigorous imprisonment for a period of one year and pay a fine of Rs.10,000/-. It is stated by learned counsel for appellant that fine imposed upon the appellant has already been deposited by him. There is no previous involvement of the appellant and his conduct was reported to be satisfactory in jail. It is also admitted that the appellant had misused the liberty of bail granted to him either during the period of trial or during the pendency of the present appeal.

9. The nominal roll of the appellant has been received. As per the nominal roll, the appellant has remained in judicial custody for about 06 days. The offence pertains to the year 2005. The appellant has faced the trial for almost 17-18 years. The investigating officer states that the appellant is not involved in any other criminal case. It is also

stated that after he was convicted and sentenced in the present case, he has contributed positively to the society.

10. Appellant has five school going children and he is earning by honest means and is not involved in any criminal case after this case which is before this court.

11. Considering the overall facts and circumstances of the case, this Court is of the opinion that no useful purpose will be served by requiring the appellant to undergo the remaining portion of sentence at this belated stage, when the appellant has faced trial for almost 17 years, and is today, earning for himself and looking after his family.

12. Thus, in view of the aforementioned circumstances, this Court, though not interfering with the conviction of the appellant, reduces the sentence of imprisonment to the period already undergone by the appellant.

13. Accordingly, the present appeal stands disposed of in above terms.

14. Bail bond stands cancelled and the surety stands discharged.

15. The order be uploaded on the website forthwith.

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**SWARANA KANTA SHARMA, J**

**FEBRUARY 22, 2023/ns**