

\$-19 & 28

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

DECIDED ON : 7th SEPTEMBER, 2015

+ **CRL.A.750/2015, CRL.M.B.7277/2015 & 7418/2015 & CRL.M.A. No. 11746/2015**

KAMRUDDIN @ GUDDA Appellant

Through : Mr.Vishwendra Verma and
Ms.Shivali, Advocates.

versus

STATE Respondent

Through : Mr.Sanjeev Sabharwal, APP with
SI Manu Sahrawat, PS Pandav
Nagar.
Mr.J.S.Arya, Advocate for the
complainant along with
complainant / injured in person.

AND

+ **CRL.A.748/2015 & CRL.M.B.7275/2015**

CHUNMUN @ BANNE Appellant

Through : Mr.Puneet Singhal, Advocate.

versus

STATE Respondent

Through : Mr.Sanjeev Sabharwal, APP with
SI Manu Sahrawat, PS Pandav
Nagar.

Mr.J.S.Arya, Advocate for the
complainant along with
complainant / injured in person.

**CORAM:
HON'BLE MR. JUSTICE S.P.GARG**

S.P.Garg, J. (Oral)

1. Aggrieved by a judgment dated 07.04.2015 of learned Additional Sessions Judge in Sessions Case No. 126/2014 arising out of FIR No.166/2010 PS Pandav Nagar by which the appellants were convicted under Sections 325/323/341/34 IPC, they have preferred the appeals. By an order dated 29.04.2015, the appellants were sentenced to undergo RI for four years with fine ₹60,000/- each under Section 325/34 IPC; RI for one year with fine ₹1,000/- each under Section 323/34 IPC and SI for one month with fine ₹500/- each under Section 341/34 IPC. The sentences were to operate concurrently. Out of the fine amount, ₹50,000/- was granted as compensation to injured Guddi and Rubina, each; ₹10,000/- to Reena and Shabana, each.

2. Briefly stated, the prosecution case as set up in the charge-sheet was that on 13.05.2010 at about 03.15 p.m. when Guddi was going to a grocery shop, the appellants met and pressurized her to take back the case relating to her brother. When Guddi declined to do so, the appellant –

Chunmun took out an iron pipe; Kamruddin took out a danda and they both attacked her. As a result, she sustained injuries on her head, left eye and right leg. Rubina and Reena (her daughters) and Shabana (her sister) when came to rescue her, they were also beaten by the appellants. First Information Report was lodged. During course of investigation, both the appellants were arrested. Statements of the witnesses conversant with the facts were recorded. After completion of investigation, a charge-sheet was filed against the appellants. Vide order 02.05.2011, they were charged under Sections 341/308/325/323/34 IPC to which they pleaded not guilty and claimed trial. The prosecution examined fifteen witnesses to prove its case. In 313 Cr.P.C. statements, the appellants denied their involvement in the crime and pleaded false implication. They did not examine any witness in defence. The trial resulted in their conviction as aforesaid. Being aggrieved and dissatisfied, the instant appeals have been preferred.

3. During the course of arguments, the appellants opted to give up challenge to the findings on conviction. They, however, prayed to take lenient view and release them for the sentence already undergone by them. They offered to pay reasonable compensation to the complaint / victims.

4. All the victims / injured along with their counsel appeared before the Court and informed that they have no objection if the sentence

order is modified and the period already undergone by the appellants is treated as their substantive sentence. They further informed that the matter has been compromised / settled with the appellants and they have received compensation as settled among them. The Investigating Officer has identified all the injured persons before the Court.

5. Since the appellants have opted not to challenge the findings on conviction, it is affirmed.

6. Regarding modification of sentence order - Kamruddin's nominal roll dated 26.08.2015 reveals that he has already suffered incarceration for four months and five days besides remission for twenty-eight days as on 24.08.2015; Chunmun's nominal roll dated 26.08.2015 reveals that he has already suffered incarceration for four months and twelve days besides remission for twenty-eight days as on 24.08.2015. Nominal rolls further reveal that they are not previous convicts and their overall jail conduct is satisfactory. They have settled the dispute with the injured / victims. Compensation as settled with the victims has since been paid to them by the appellants. It further reveals that the parties are closely related to each other.

7. Considering the mitigating circumstances, the period already undergone by the appellants in this case is treated as substantive sentence.

Other terms and conditions of the sentence order are left undisturbed. Receipt and an order dated 03.09.2015 of the Trial Court have been filed to show that the fine imposed by the Trial Court has since been deposited by the appellants.

8. The appeals stand disposed of in the above terms. The appellants shall be released forthwith if not required to be detained in any other criminal case. Trial Court record (if any) be sent back immediately with the copy of the order. Intimation be sent to the Superintendent Jail immediately.

9. Pending applications also stand disposed of.

10. Dasti.

(S.P.GARG)
JUDGE

SEPTEMBER 07, 2015 / tr