

**IN THE COURT OF SH. GURVINDER PAL SINGH
PRINCIPAL DISTRICT & SESSIONS JUDGE
SOUTH DISTRICT, SAKET COURTS, NEW DELHI**

CNR No.DLST01-007363-2022

SC No. 389/2022

FIR No. 239/2022

State vs. Rajesh @ Dholu & Anr.

P.S Ambedkar Nagar

Under Sections 308/323/341/34 IPC

ORDER ON SENTENCE

Having convicted accused persons (1) Rajesh @ Dholu S/o Mahavir and (2) Rahul S/o Mahavir on 15/04/2026 for the commission of offences under Sections (i) under Section 308 of IPC read with Section 34 of IPC; (ii) under Section 323 of IPC read with Section 34 of IPC and (iii) under Section 341 of IPC read with Section 34 of IPC.; I have heard Sh. Gurbhej Singh Guraya, Ld. Chief Public Prosecutor for State; Sh. Momin Faizal, Ld. Counsel for convicts Rajesh @ Dholu and Rahul; the convicts; Sh. Ashutosh, Proxy Counsel for Sh. Rohit Kudiya, Ld. Counsel for complainant and have perused the record.

2. Ld. Chief Public Prosecutor for State prayed for award of maximum permissible sentence to convicts and no lenient view to be taken since the convict Rajesh @ Dholu was previously involved in the cases i.e., (i) FIR No. 121/2007 of Police Station Badar Pur, under Sections 379/411 IPC and (ii) FIR No. 393/2008 of Police Station Ambedkar Nagar under Section 394/34 IPC and besides that convicts shared common intention and convict Rajesh @ Dholu

assaulted PW1 Deepak by brick on his vital part of body i.e., head resulting in '*laceration on left side of temporal side of scalp*'. Convicts had also voluntarily obstructed PW1 Deepak from proceeding in the direction where he had right to proceed and wrongfully restrained PW1 Deepak. Convicts had also caused hurt on person of PW2 Raghuraj while sharing common intention. Proxy Counsel for Ld. Counsel for complainant supported the contentions of Ld. Chief Public Prosecutor for State put forth for award of sentence to the convicts.

3. Sh. Momin Faizal, Ld. Counsel for convicts Rajesh @ Dholu and Rahul prayed for lenient view for convicts Rajesh @ Dholu and Rahul on following premise. Convict Rajesh @ Dholu is of age 38 and half years; 10th class pass; married having home maker wife and three minor sons (of age 16 years, 13 years and 5 years) to support as they are school going students. Convict Rajesh @ Dholu is stated to be privately employed in field duty in a Travel Company, earning salary of Rs.16,000/- approximately per month. Convict Rajesh @ Dholu is stated to be not a previous convict. Also in aforesaid two cases i.e., (i) FIR No. 121/2007 of Police Station Badar Pur, under Sections 379/411 IPC and (ii) FIR No. 393/2008 of Police Station Ambedkar Nagar under Section 394/34 IPC, elicited by Ld. Chief Public Prosecutor for State; convict Rajesh @ Dholu has been acquitted. Convict Rahul is stated to be of aged 31 and half years; 8th class pass; having senior citizen retired safai karamchari parents; home maker wife and two minor sons (of age 16 years and 9 years respectively) to support, who are studying in school.

Convict Rahul is stated to be self employed, engaged in Sale and Purchase of second hand two wheeler and four wheeler vehicles. Convict Rahul is not a previous convict. Convict Rahul had not been earlier involved in any other criminal case. Ld. Counsel for convicts argued that as per reformatory theory; one should hate the sin, not the sinner. Ld. Counsel for convicts prayed for award of minimum sentence for the convicts.

4. Convicts had wrongfully restrained PW1 Deepak while sharing common intention. Convicts while sharing common intention had caused abrasion on left side chest of PW2 Raghuraj and thus simple hurt while beating him. Convicts were sharing common intention while beating PW1 Deepak; when convict Rajesh @ Dholu had lifted a brick from park and hit it over the head of PW1 Deepak, resulting in laceration on left side of temporal side of scalp of PW1 Deepak. Assault by brick on the vital body part of PW1 Deepak i.e., on head had brought the act of convicts sharing common intention in the ambit of commission of offence of culpable homicide, not amounting to murder; as blow by brick with force on vital body part i.e., head would be endangering his life. No intention to cause death could be attributed to convicts sharing common intention for committing culpable homicide, not amounting to murder of PW1 Deepak in assault by brick on head of PW1 Deepak. Convict Rajesh @ Dholu was arrested on 21/04/2022 and enlarged on interim bail on 28/09/2022. Later on 15/12/2022 convict Rajesh @ Dholu was admitted on regular bail.

5. There is no material on record of any previous conviction of the convicts in any other criminal case. Even convict Rahul had no past criminal antecedents. However, enlarging convicts on probation of good conduct is *passee part* not made out in the fact of the matter. In this fact of the matter, I accordingly sentence convicts (i) Rajesh @ Dholu S/o Mahavir and (ii) Rahul S/o Mahavir (a) **under Section 308 of IPC read with Section 34 of IPC** to Two Years Rigorous Imprisonment each and they are also directed to pay fine of Rs.7,000/- each; which on realisation shall be payable to injured PW1 Deepak as compensation, failing which each of the convicts shall undergo Two Months Simple Imprisonment; (b) **under Section 341 of IPC read with Section 34 of IPC** to One Month Simple Imprisonment each and they are also directed to pay fine of Rs.500/- each; which on realisation shall be payable to PW1 Deepak as compensation, failing which each of the convicts shall undergo 7 days Simple Imprisonment and (c) **under Section 323 of IPC read with Section 34 of IPC** to 6 Months Rigorous Imprisonment each and they are also directed to pay fine of Rs.1,000/- each; which on realisation shall be payable to injured PW2 Raghuraj as compensation, failing which each of the convicts shall undergo 10 days Simple Imprisonment.

6. Aforesaid sentences shall run concurrently.

7. Benefit u/s.428 Cr.P.C. be given to the convicts. Period of detention undergone be reduced from period of sentence. Compensation shall be paid to injured persons after expiry of period

of appeal or order of Appellate Court, whichever are later.

8. Copy of the judgment and copy of order on sentence be provided to the convicts, free of cost, immediately.

9. Ahlmad to prepare the Custody Warrants of convicts.

10. File be consigned to Record Room after necessary compliance.

**Announced in the open Court
today i.e. 20th April, 2026**

**(Gurvinder Pal Singh)
Principal District & Sessions Judge
South District, Saket Court, New Delhi (DK)**