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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.A. 1636/2013

HARBIR SINGH @ MONU & ANR

.....Appellants

Through: Mr. Shoaib Khan, Mr. Mihir Suneja,
Adv.

versus

STATE & ANR

.....Respondents

Through: Mr. Ritesh Kumar Bahri, APP with
Ms. Divya Yadav, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

ORDER

% **23.03.2026**

1. This hearing has been done through hybrid mode.
2. The present appeal has been filed seeking enhancement of sentence of awarded to Respondent No. 2 - Mr. Nem Singh *vide* judgement and order on sentence 21st August, 2013 and 29th August, 2013, respectively, passed in **SC No. 73/2009** by Id. Additional Session Judge-02, South East District, Saket Court, New Delhi. The said case arose out of **FIR No. 768/2007** registered at P.S. Ambedkar Nagar.
3. The relevant background of the present appeal is that *vide* judgment dated 21st August, 2013, the Respondent No. 2 was held guilty of offences punishable under Section 307 of IPC. Accordingly, *vide* the order on sentence dated 29th August, 2013 he was sentenced to undergo rigorous imprisonment for seven years with a fine of Rs.20,000/-. The operative portion of the judgment and order on sentence are set out below:

Impugned Judgment

“The quantum of force used in private defence must be moderate and proportionate to the circumstances of the



case. By firing upon a person and that at his chest or other vital parts of body could be fatal and every person of ordinary prudence can be presumed to know to fact. Even if, it is presumed that Nem Singh fired at Kailash Bhardwaj in his defence, in my opinion accused exceeded his right of self defence by firing not at the victim Kailash Bhardwaj on his vital parts and that again and again. Accused Nem Singh is thus convicted for offence punishable under Section 307 IPC.”

Order on sentence:

“Keeping in view facts of this case and also the circumstances of convict as disclosed by Ld. Counsel representing him, he i.e. convict is sentenced to rigorous imprisonment for seven years and also a fine of Rs. 20,000/-. In default of payment of fine, the convict has to undergo or year simple imprisonment more. Out of said amount of Rs.20,000/-, Rs. 10,000/- be given to injured as compensation. The convict will be entitled for setting off the period of detention already undergone by him during investigation, enquiry and trial of this case in view of Section 428 Cr.P.C.”

4. The Appellant herein is the Complainant in the **FIR No. 768/2007**. The Respondent himself had filed two appeals being **CRL.A. 1371/2013** titled **Nem Singh v. State** and **CRL.A. 1372/2013** titled **Nem Singh v. State & Ors.** wherein vide order dated 7th September, 2015, both the appeals were disposed of in the following terms:

“3. During the course of arguments, the appellant opted to give up challenge to the findings of the Trial Court whereby he was convicted under Section 307 IPC. Prayer was made to modify the sentence order by taking lenient view as the matter has been settled with the victim and the appellant has agreed to pay `2 lacs as compensation to him for the expenses incurred for treatment of the injuries sustained by him. Learned



counsel for the complainant, after seeking instructions from the complainant / victim, stated at Bar that the complainant has no objection to modify the sentence order in view of the changed circumstances whereby he has agreed to accept `2 lacs as compensation.

4. Since the appellant has given up challenge to the findings on conviction, judgment under Section 307 IPC on conviction is affirmed. Regarding Sentence Order - nominal roll dated 27.02.2015 reveals that the appellant has already suffered incarceration for two years, one month and eight days besides remission for six months and twenty days as on 23.02.2015. Nominal roll further reveals that the appellant is a first time offender and is not involved in any other criminal case. His overall jail conduct is satisfactory. Sentence order records that the appellant is the only bread-earner of his family consisting of his wife and two school going minor sons. He is to take care of his aged parents. He also sustained injuries on his body. The complainant has settled the dispute with the appellant of his free will without any fear or pressure and has agreed to accept `2 lacs offered by the appellant as compensation. `50,000/- have been given today in the Court to the victim's counsel. `1.5 lac have been agreed to be paid to the victim within two weeks. It is agreed that the appellant would not pursue Crl.A.1372/2013 pending before this Court. **The complainant has also agreed not to pursue the appeal for enhancement of sentence pending before Division Bench of this Court.**

5. In view of the mitigating circumstances, Sentence Order is modified and the period already undergone by the appellant is taken as substantive sentence. He shall pay fine of `2,000/- and shall suffer default sentence SI one month. The appellant shall be at liberty to deposit the fine Rs.2,000/- in jail.



6. Crl.A.1371/2013 stands disposed of in the above terms. While maintaining conviction under Section 307 IPC, the sentence order is modified to the extent that the period already remained in custody shall be the substantive sentence with fine Rs.2,000/- and default sentence for its non-payment would be SI for one month.”

As can be seen from the above order, the Complainant *i.e.*, the Appellant herein had agreed not to pursue the appeal for enhancement of sentence pending before this Court. The Sentence already stands modified by the above order and has attained finality.

5. The Court has also gone through the judgment of the Trial Court and is of the opinion that, at this stage, considering the order extracted above and even otherwise, this would not be a fit case for enhancement of sentence.

6. Accordingly, the appeal is rejected and disposed of in the above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

MADHU JAIN, J.

MARCH 23, 2026

Rahul/msh