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CrI.A.No. 1485 OF 2003
ITEM No. 3

Court No.4

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CrI.Appeal No. 1485/2003

PUSAI Appellant(s)

VERSUS

STATE (NCT) OF DELHI Respondent (s)

(for final disposal)(for further orders)

Date : 04/02/2004. This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.SANTOSH HEGDE
HON'BLE MR. JUSTICE B.P. SINGH

For Petitioner (s)
Mr.Vijay Panjwani,Adv. (A.C.)

For Respondent (s)
Mr.Ashok Bhan,Adv.,
Mr.R.K. Rathore,Adv.,
Mr.Satbir Pillania,Adv.,
Mrs.Anil Katiyar,Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard the learned amicus-curiae for about half an hour.
The appeal is partly allowed. The sentence awarded to the appellant is reduced to the period already undergone. The appellant is on bail. His bail bonds stands discharged.

(Vijay Kumar Sharma) (Prem Prakash)
AR cum PS to Hon.Judge Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1485/2003

PUSAI..Appellant

Versus

STATE (NCT) OF DELHI..Respondent

O R D E R

The appellant before us was charged for the offences punishable under Sections 452 and 307 IPC before the Addl. Sessions Judge, Shahadra, Karkadoma Courts, Delhi. The said court after trial found the appellant guilty and sentenced the appellant to undergo two years R.I. and a fine of Rs.500/- under Section 324 IPC and in default in payment of fine to further undergo R.I. for three months. And under Section 452 IPC he was sentenced to undergo R.I. for three years and with fine of Rs.500/- and in default in payment of fine further R.I. for three months. However, both the sentences were directed to run concurrently. An appeal filed by the appellant before the Delhi High Court came to be dismissed and hence this appeal before us. We have heard the learned counsel for the parties and perused the record. The allegation against the appellant is that on 8.10.1993 at about 9.30 P.M. because of some tenancy dispute between the victim (PW-2) and the appellant-tenant. The appellant entered the house of the PW-2 and caused a knife injury on his abdomen. On hearing the cries of PW-2, his brothers and cousins who were sleeping on the roof of the first floor came down and out of them PW-3 Rangeela saw the appellant running away from the house of the PW-2 who was then taken to the hospital and according to the medical report he had suffered a stab injuries on the abdomen which was termed as 'dangerous' injury by the concerned doctor. Before the trial court even though the victim -PW-2 had not identified the appellant, PW-3 in specific terms has said that when he rushed to the ground floor he had seen the appellant running away from the said place and since appellant was known to PW-3, he was easily able to identify the appellant. This evidence has not been challenged by way of cross-examination on behalf of the appellant. Consequently, the courts below proceeded to accept the same and convicted the appellant for the offences as stated above. Having perused the record, we are satisfied that the courts below were justified in coming to the conclusion that the prosecution has proved its case that the appellant is guilty of the offences as found by the two courts below. However, taking into consideration the facts and circumstances of the case and the fact that the appellant has undergone imprisonment for one year five months and fifteen days, we think the sentence imposed on the appellant is on the higher side. Therefore, we modify the said sentence while maintaining the conviction to the period already undergone and set aside the fine clause. The appeal is partly allowed. The appellant is on bail. His bail bonds stands discharged.

.....J
(N.Santosh Hegde)

.....J
(B.P. Singh)
New Delhi,
February 4, 2004