



2025:DHC:7757



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

% Date of Decision: 03.09.2025

+ **CRL.A. 198/2019 & CRL.M.A. 4001/2019**

STATE OF NCT OF DELHIAppellant
Through: Ms. Shubhi Gupta, APP for State

versus

MAHESH KUMARRespondent
Through: Mr. M.L. Yadav (DHCLSC) and
Mr.Prashant, Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present appeal filed under Section 377 Cr.P.C, the State, being aggrieved by the inadequacy of the sentence imposed on the respondent by the Trial Court, seeks enhancement of the same.
2. Pertinently, the respondent faced trial in FIR No. 293/2003 under Sections 302/308/323/4521174A/34 IPC and Section 27 Arms Act registered at P.S. New Usmanpur, Delhi. He was convicted for the offences under 304/34 IPC vide judgement dated 06.08.2025 and vide order on sentence dated 31.08.2018, he was held to be falling under Section 304 (II) IPC and sentenced to undergo rigorous imprisonment (RI) for a period of 2 years, 7 months and 8 days, which was already undergone by him and also to pay a fine of Rs. 1 lac, out of which Rs.70,000/- was to be paid to the victims as



compensation and further a fine of Rs.30,000/- was to be paid with Chief Minister Kerala Flood Relief Funds, in default whereof, he was directed to undergo simple imprisonment (SI) for 7 months. Benefit of Section 428 Cr.P.C. was extended to him.

3. In brief, the case against him was that two groups were quarrelling at the factory of one *Ram Singh*. The father of the appellant, *Khem Chand* who was supporting one group, was pushed by the deceased/*Raj Kumar* and sustained injuries on his head. *Khem Chand* called the appellant and exhorted him by saying that “*Aaj inme se ek aadh ko thikane Iagana padega*”. On hearing this, the appellant rushed towards the deceased with a knife and stabbed him in the thigh, resulting in his demise.

4. Learned APP for the State submits that the case of the prosecution has been duly established as there were several eyewitnesses who saw the appellant giving the knife blow to the deceased. The post mortem report has also pinpointed the injury received on the thigh on account of this knife as the cause of death. It is submitted that the sentence awarded by the Trial Court is grossly inadequate and ought to be enhanced, considering that a life has been lost.

5. Learned counsel for the respondent, on the other hand, states that the respondent has not assailed the judgment on conviction and states that, pertinently, the respondent has faced trial since 2012 and is around 49 years old with Acute Asthma. He works as an ambulance driver and has three children aged 14, 10 and 3 years old respectively. It is submitted that there was no pre-mediation, the injury was caused on the thigh and it was not a



case of repeated blows being given. It is submitted that since the appellant had already been incarcerated for more than two and a half years, the sentence awarded was not inadequate. It was rather, in conformity with the principles governing sentencing. Reliance in this regard is placed on the decision of the Supreme Court in State of Madhya Pradesh v. Suresh¹. Learned Counsel, however, on instructions from the respondent, prays that the respondent volunteers to pay to the victims an additional fine amount of Rs. 20,000/-, within two months from today, in addition to the fine already paid.

6. Sentencing is governed by principle of proportionality. A just and appropriate sentence has to be determined by giving due consideration to the facts and circumstances of each case, to ensure deterrence and correction. There has to be delicate balancing of the aggravating and the mitigating factors and the circumstances revolving around the crime, keeping in view the gravity of the offence. Any one factor, whether aggravating or mitigating, cannot by itself be determinative of the sentence. In State of MP v. Suresh (Supra), the Trial Court, while convicting the accused under Section 304(II) IPC, had awarded RI for 3 years. The Supreme Court while affirming the Trial Court decision further discussed the factors governing sentencing in the following manner: -

“13. Therefore, awarding of just and adequate punishment to the wrongdoer in case of proven crime remains a part of duty of the court. The punishment to be awarded in a case has to be commensurate with the

¹ (2019)14 SCC 151SS



gravity of crime as also with the relevant facts and attending circumstances. Of course, the task is of striking a delicate balance between the mitigating and aggravating circumstances. At the same time, the avowed objects of law, of protection of society and responding to the society's call for justice, need to be kept in mind while taking up the question of sentencing in any given case. In the ultimate analysis, the proportion between the crime and punishment has to be maintained while further balancing the rights of the wrongdoer as also of the victim of the crime and the society at large. No straitjacket formula for sentencing is available but the requirement of taking a holistic view of the matter cannot be forgotten.

14. In the process of sentencing, any one factor, whether of extenuating circumstance or aggravating, cannot, by itself, be decisive of the matter. In the same sequence, we may observe that mere passage of time, by itself, cannot be a clinching factor though, in an appropriate case, it may be of some bearing, along with other relevant factors. Moreover, when certain extenuating or mitigating circumstances are suggested on behalf of the convict, the other factors relating to the nature of crime and its impact on the social order and public interest cannot be lost sight of.

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18. The High Court also appears to have omitted to consider the requirement of balancing the mitigating and aggravating factors while dealing with the question of awarding just and adequate punishment. The facts and the surrounding factors of this case make it clear that, the offending act in question had been of the respondent assaulting his father with a blunt object which resulted in the fracture of skull of the victim at parietal region. Then, the respondent attempted to cover up the crime by taking his father to hospital and suggesting as if the victim sustained injury because of fall from the roof. Thus, the acts and deeds of the respondent had been of killing his own father and then, of furnishing false information. The homicidal act of the respondent had, in fact, been of patricide; killing of one's own father. In such a case, there was no further scope for leniency on the question of punishment than what had already been shown by the trial court; and the High Court was not justified in reducing the sentence to an abysmally inadequate period of less than 4 months. The observations of the High Court that no useful purpose would be served by detention of the accused cannot be approved in this case for the reason that the objects of deterrence as also protection of society are not lost with mere passage of time.”



In the present case, the respondent had already undergone RI for a period of 2 years 7 months and 8 days before he was directed to be released on period already undergone by him.

7. A perusal of the judgement of conviction would show that three eyewitnesses, namely *Smt. Veermati* (PW-2), *Vijay Singh* (PW-11) and *Anoop Singh* (PW-27) have supported the prosecution case. PW-2 has categorically deposed that there was a quarrel which was already taking place between some people. The father of the accused had caught hold of the deceased and exhorted the appellant by saying that "*Aaj inme se ek aadh ko thikane lagana padega.*" Considering that there was no pre-meditation, or any prior enmity or motive, as well as that the injury was inflicted by a single knife blow to the thigh, it was held that the appellant did not have intention to kill the deceased, but he had the knowledge that the injury inflicted by him was likely to cause the death of the deceased, and thus the conviction of the appellant was held to be under Section 304 (II) IPC.

8. Balancing the aggravating circumstances with the mitigating factors, it is seen that the incident pertains to the year 2003. The respondent works as an ambulance driver, has 3 minor children and suffers from health issues. Nothing has been brought to the notice of this Court that the respondent has any other involvement. Considering the entire facts and circumstances, the ends of justice would be met if the fine is enhanced by Rs. 20,000/-, which the respondent undertakes to deposit with the Trial Court within 2 months, which are to be released to the victims.



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9. The appeal is disposed of along with the pending application in the aforesaid terms.

**MANOJ KUMAR OHRI
(JUDGE)**

SEPTEMBER 3, 2025

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