



2025:DHC:5112



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 01.07.2025*+ **CRL.A. 245/2025 & CRL.M.(BAIL) 430/2025 (suspension of sentence)**

VARUN @ BINNY

.....Appellant

Through: Ms. Tara Narula (DHCLSC),  
and Ms. Shivanjali Bhalerao,  
Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for State  
with Mr. Vikrant Singh Padiyar,  
Ms. Shimpi Chaudhary and Mr.  
Manoj Kumar, Advocates  
alongwith SI Vikas, PS Rajouri  
Garden.**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. The present appeal has been filed by the appellant challenging the judgment of conviction dated 22.10.2024 and order on sentence dated 10.01.2025, passed by the learned Additional Sessions Judge-05, Central District, Tis Hazari Courts, Delhi [hereafter '*Trial Court*'], in Sessions Case No. 366/2022, arising out of FIR No. 228/2022, registered at Police Station Rajouri Garden, Delhi.



2. By way of impugned judgment, he has been convicted for commission of offence under Section 307/506(II) of the Indian Penal Code, 1860 [hereafter '*IPC*']. Further, by way of impugned order on sentence, he has been sentenced to undergo rigorous imprisonment for a period of three years and six months and to pay a fine of Rs. 30,000/- and in default of payment of fine, undergo simple imprisonment for a period of three months for the offence punishable under Section 307 of IPC; and to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 10,000/- and in default of payment of fine to undergo simple imprisonment for a period of one month for the offence punishable under Section 506(II) of IPC. Both the sentences were directed to run concurrently and the benefit of Section 428 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C*'] was granted to appellant.

3. Though the appeal was admitted and listed in due course *vide* order dated 25.02.2025 by this Court, the same is taken up today with the consent, and at the request, of the learned counsel for the appellant as well as learned APP for the State.

4. At the outset, the learned counsel appearing for the appellant, on instructions, submits that the appellant is not challenging the conviction awarded to him *vide* impugned judgment dated 22.10.2024 passed by the learned Trial Court. His only grievance is confined to the sentence of fine of Rs.40,000/- (Rs.30,000/- for the offence under Section 307 of IPC and Rs.10,000/- for the offence under Section 506(II) of IPC) imposed upon him *vide* the order on



sentence dated 10.01.2025. The appellant further prays for a reduction in the default sentence imposed in case of non-payment of the said fine.

5. It is submitted on behalf of the appellant that the fine imposed is excessive and disproportionate, especially in view of the fact that the appellant has already undergone about three years and four months of incarceration out of the total sentence of three years and six months. It is further argued that the appellant comes from an economically weaker background and does not possess sufficient means to pay the said amount, and in default, he would be compelled to undergo an additional period of simple imprisonment of four months. The learned counsel further submits that the appellant is presently around 36 years of age and belongs to a financially deprived section of society. He was previously working as an e-rickshaw driver and earning a meager income of about Rs.6,000/- per month. It is submitted that his family consists of his aged father, who is a senior citizen suffering from multiple age-related ailments, his wife, and his unmarried siblings – his sister who is pursuing graduation and his younger brother who is studying in Class 11. The appellant is stated to be the sole breadwinner, and his prolonged incarceration is causing considerable hardship to his dependents. It is also argued that the appellant maintained good conduct during trial and incarceration and that no adverse report has been received from the jail authorities.

6. *Per contra*, the learned APP for the State has opposed the



prayer for reduction of fine. He submits that the appellant has a long criminal history and is involved in as many as 13 other criminal cases and *kalandras*, including the present one, several of which are still pending trial. In such circumstances, no leniency ought to be extended to him.

7. This Court has **heard** arguments addressed on behalf of both the parties and has perused the material available on record.

8. Since the appellant is not assailing his conviction for offence under Sections 307 and 506(II) of the IPC, and his prayer is limited to seeking reduction in the fine amount of Rs.40,000/- imposed by the learned Trial Court, along with the default sentence in case of non-payment of the said fine, this Court is not dealing with the merit of the case regarding order of conviction.

9. The findings of the learned Trial Court, in the impugned order on sentence, are as under:

“ In the present case, the convict Varun @ Binny was convicted for the offence u/s. 307/506-II IPC.

As per nominal roll, five other criminal cases are pending against the convict and convict was convicted in case bearing FIR No. 189/2011 u/s 323/427/452/506/34 IPC, PS Rajouri Garden. It is also mentioned in the nominal roll that overall jail conduct of the convict is un-satisfactory. Keeping in view the seriousness of the offence and conduct of the convict, the convict is not entitled for the benefit of provisions of admonishing or probation in the present case.

Considering the facts, circumstances, submissions made and aggravating and mitigating circumstances, this Court is of the considered opinion that the interest of justice would met if the convict is sentenced to undergo rigorous imprisonment for the period of three years and six months for the offence u/s.



307 IPC and fine of Rs.30,000/-. In default of payment of fine, simple imprisonment for the period of three months. Convict is also sentenced to undergo simple imprisonment for the period of one year for the offence u/s. 506-II IPC and fine of Rs.10,000/-. In default of payment of fine, simple imprisonment for the period of one month.

All the aforesaid sentences shall run concurrently. Benefit of Section 428 Cr.P.C. is given to the convict and the period of detention already undergone by the convict shall be set off against the substantive period of sentence awarded to the convict. Fine not paid. Requisite warrants be prepared.

#### COMPENSATION

During the course of arguments, it was submitted by Ld. Addl. PP for the State that the prosecution has suffered expenses of Rs.5,983/- in conducting prosecution of the convict. It was also submitted that as per Victim Impact Report, the complainant/victim has suffered the loss of the amount as mentioned in the Victim Impact Report.

In the present case, the complainant/injured had sustained the simple injury. The paying capacity of the convict is stated to be sufficient. As per Victim. Impact Report, the convict has sufficient resources to pay adequate compensation. Considering the facts, circumstances, submissions made and averments made in the Victim Impact Report, it is directed that out of the total fine amount of Rs.40,000/-, amount of Rs.6,000/- is awarded to the prosecution towards the expenses incurred by the State on prosecution and remaining fine amount of Rs.34,000/- be paid to the complainant/ victim as compensation.”

10. Upon examining the material on record and considering the nature of the offence, the background of the appellant, and the purpose for which the fine was imposed, this Court is not inclined to interfere with the order on sentence. A significant factor weighing against the appellant is a long list of his criminal antecedents. As rightly pointed out by the learned APP for the State, the appellant has



been involved in about 13 criminal cases and *kalandras* since the year 2011, which shows a pattern of repeated unlawful behavior over more than a decade. These include cases registered under serious offences which are pending trial. The appellant, therefore, cannot be said to be a first-time offender deserving leniency solely on humanitarian grounds. His consistent involvement in criminal activities is contrary to and belies his plea that he has been reformed or that his incarceration alone serves the ends of justice.

11. Additionally, the fine amount imposed by the Trial Court was not arbitrary, but was intended to serve a dual purpose: firstly, to compensate the complainant for the harm caused to him, and secondly, to recover the cost of prosecution borne by the State. The learned Trial Court thus duly considered the injury suffered by the complainant, the resources and paying capacity of the convict, and the victim impact report before arriving at the said amount. Importantly, the fine is being paid as compensation to the complainant and it has not been imposed merely as a punitive measure. In light of this, the plea of financial hardship cannot override the right of the victim to receive just compensation for the harm suffered.

12. In view of the above discussion and taking into account the nature of the offence, the repeated involvement of the appellant in criminal cases, and the justified reasoning behind the imposition of fine and compensation by the learned Trial Court, this Court does not find any reason to interfere with the order on sentence dated



2025:DHC:5112



10.01.2025. The findings recorded therein are well-reasoned and do not suffer from any perversity or illegality.

13. Accordingly, the present appeal alongwith pending application, if any, stands dismissed.

14. The judgment be uploaded on the website forthwith.

**DR. SWARANA KANTA SHARMA, J**

**JULY 01, 2025/A**