

Vijender @ Bhatti Vs. State

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Court : Delhi

Decided On : Sep-26-2013

Judge : S. P. Garg

Appellant : Vijender @ Bhatti

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI DECIDED ON :

26. h September, 2013 + CRL.A. 332/1999 VIJENDER @ BHATTI Appellant
Through : Mr.Deepak Tyagi with Mr.Anis Hashmi, Advocates. VERSUS STATE
..... Respondent Through : Mr.M.N.Dudeja, APP for the State. CORAM: MR.
JUSTICE S.P.GARG S.P.GARG, J.

(ORAL) 1. Vijender @ Bhatti (the appellant) was convicted under Section 307 IPC by a judgment dated 27.02.1999 arising out of FIR No.267/1995 registered at Police Station Mandir Marg for attempting to murder Rakesh on 23.07.1995 at 04.30 P.M. on the roof of House No.36, Lady Harding Compound. The prosecution sent Vijender @ Bhatti and Vinod Kumar @ Tinku for trial. However, on appreciating the evidence and after considering the contentions of the parties, the Trial Court acquitted Vinod Kumar of all the charges. The appellant was sentenced to undergo RI for four and a half years with fine `2,500/-. Being aggrieved Vijender @ Bhatti has preferred the appeal.

2. During the course of arguments, appellants counsel on instructions, stated at Bar that the appellant has accepted his conviction under Section 307 IPC voluntarily and opted not to challenge it. Prayer was made to modify the sentence order as the appellant has already served the substantial portion of the substantive sentence.

3. Since the appellant has accepted the conviction under Section 307 IPC voluntarily and there is overwhelming evidence in the statement of PW-1(Rakesh), the victim and PW-8 (Mohan @ Akkar), the conviction under Section 307 stands affirmed. The appellant was sentenced to undergo RI for four and a half years with fine `2,500/-. Nominal roll dated 09.02.2011 reveals that he has already undergone 02 years, 10 months and 11 days incarceration as on 16.09.1999. He also earned remission for 25 days. He has clean antecedents and is not involved in any other criminal case. He is the first offender and overall conduct in jail was satisfactory. No criminal involvement surfaced in any case after his release on bail on 16.09.1999. He has suffered the agony of trial/appeal for about 18 years. At present he is in service with De-Addiction Centre. He is HIV (+ve) and is a cancer patient getting treatment at Safdarjung Hospital for which necessary documents have been placed on record. The complainant-Rakesh exonerated co-accused Vinod Kumar @ Tinku and did not attribute any role to him. Taking into consideration all these mitigating circumstances, the sentence order is modified and the appellant (Vijender @ Bhatti) is ordered to be released for the period already undergone by him in this case. He shall pay `2,500/- imposed as fine (if not paid so far) before the Trial Court within 15 days.

4. The appeal stands disposed of in the above terms. Trial Court record be sent back forthwith. (S.P.GARG) JUDGE September 26, 2013 sa

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