

Mohd. Islam Vs. the State

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Court : Delhi

Decided On : Jan-17-2014

Judge : Indermeet Kaur

Appellant : Mohd. Islam

Respondent : The State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI % + Date of Judgment:17.01.2014. CRL.REV.P. 685/2013 & CrI. M.(B) No.2402/2013 MOHD. ISLAM Petitioner Through Mr. Haneef Mohammad, Adv. versus THE STATE Through Respondent Ms. Kusum Dhalla, APP CORAM: HON'BLE MS. JUSTICE INDERMEET KAUR INDERMEET KAUR, J.

(Oral) 1 This revision petition is directed against the impugned judgment dated 19.11.2013 wherein while dismissing the appeal filed by the petitioner against the judgment dated 29.09.2011, the sentence had been modified. The learned Metropolitan Magistrate for the offence under Sections 279/304-A of the IPC had sentenced the petitioner to undergo SI for a period of 9 months and to pay a fine of Rs.2,000/- and in default of payment of fine, to undergo SI for 2 months. This was for the offence under Section 304-A of the IPC. For the offence under Section 279 of the IPC, the petitioner was sentenced to undergo SI for 3 months; the Sessions Judge had modified the sentence and had reduced the SI for 9 months to SI for a period of 3 months for the offence under Section 304A of the IPC; the sentence

under Section 279 of the IPC as also the imposition of fine has remained unaltered. 2 Relevant would it be to note that before the Sessions Judge it has been noted that while addressing arguments on the appeal, the counsel for the appellant had categorically stated that he did not wish to challenge the conviction on merits but had also prayed for modification of the sentence. Accordingly, the merits of the case had not been taken up before the Sessions Judge. Before this Court, learned counsel for the petitioner has sought to address arguments in detail on the merits of the case. It has been brought to his notice that he had given up his right before the Sessions Court and before this Court which is sitting in revisional jurisdiction, this matter cannot be taken on merits. He can only be heard on sentence. 3 Accordingly, arguments had been addressed on the sentence. It is stated that the convict is a first time offender; he is aged 55 years; he is the sole bread earner of the family; he was earning his livelihood by driving the TSR; out of the sentence of 3 months which has been imposed upon him he has already undergone imprisonment for 1 month 27 days. This is reflected from his nominal roll dated 15.01.2014. His conduct in the jail also being satisfactory, he should be entitled to a further concession and sentence to the period already undergone by him. 4 This submission has been refuted by the learned public prosecutor who submits that admittedly one innocent life had been lost; the sentence of 3 months is more than lenient which has been imposed upon the petitioner calls for no interference. 5 The victim who had lost his life in this incident was also probably a bread earner in his family. He was aged 25 years. He was on the brink of his life. The sentence imposed must always commensurate with the gravity of the offence. This is the fundamental rule of criminal jurisprudence. 6 For the offence under Section 304-A the Legislature has prescribed a sentence which may extend up to 2 years. The petitioner is guilty of the offence under Section 304-A. The sentence imposed by the Sessions Judge already being very lenient; no further modification is called for in the said sentence. 7 Revision petition is dismissed. **INDERMEET KAUR, J** JANUARY17 2014 A