

**Suresh Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/1135334](http://sooperkanoon.com/1135334)

**Court :** Delhi

**Decided On :** Mar-26-2014

**Judge :** Indermeet Kaur

**Appellant :** Suresh

**Respondent :** State

**Judgement :**

\* % + IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Judgment :

26. 03.2014. CRL.A. 203/2006 SURESH Through ..... Appellant Appellant with his counsel Mr.Usman Chaudhary, Adv. versus STATE Through ..... Respondent Ms. Kusum Dhalla, APP CORAM: HON'BLE MS. JUSTICE INDERMEET KAUR INDERMEET KAUR, J.

(Oral) 1 This appeal is directed against the impugned judgment and order of sentence dated 24.01.2006 and 25.01.2006 respectively wherein the appellant Suresh had been convicted for the offence under Section 307/34 of the IPC and has been sentenced to undergo RI for a period of 4 years and to pay a fine of Rs.2,000/- and in default of payment of fine to undergo SI for 3 months. 2 Nominal roll of the appellant reflects that as on 30.06.2006, he has suffered incarceration of about 7 months and 23 days besides remission earned of 1 month and 20 days meaning thereby that he has suffered incarceration for about 9 months and 15 days; he had been granted bail on 07.08.2006. Another 1- month accrued to his

benefit meaning thereby he had suffered a total sentence of 11 months. 3 Learned counsel for the appellant has not really assailed the conviction. He has sought mercy for the appellant. His submission is that the appellant (present in Court) is now 28 years of age; he is married and has a two years old daughter; he has an aged father (also present in Court) who is in his early 90s and the appellant is the only bread winner of the family and no useful purpose would be served in sending him back to jail and in case he is sent back to suffer incarceration, his family will be on the verge of starvation. 4 Record shows that the present appellant along with two other persons were involved in an incident which had occurred on 13.01.2003 wherein Tahira (PW-1) had sustained gunshot injuries. Her statement (Ex.PW-1/A) was to the effect that she was residing in the vicinity of the appellant; his co-accused Rohit (since declared a juvenile) along with the other co-accused i.e. Mohd. Nafis and the present appellant had an altercation with her; Rohit who was armed with a country made pistol fired a shot at her; she sustained injuries. Her MLC (Ex.PW-9/A) has been perused. She had suffered multiple pellet injuries tattooed over her back. Injuries were opined to be simple. Role attributed to the present appellant was that he had caught hold of the hands of the injured; admittedly the gunshot was fired by co-accused Rohit. No recovery was effected from the present appellant. In this background, no useful purpose would be served in sending the appellant to jail who is the only bread-earner of the family having an aged father and a minor daughter to support. Thus, keeping in view that the nature of injuries suffered by the victim which were simple; the role attributed to the appellant being that he had caught hold of the hands of the victim as also in view of the fact that the appellant has already undergone incarceration for about 11 months, this period of incarceration shall be the sentence imposed upon him. In addition, the appellant undertakes to pay Rs.25,000/- to the victim Tahira. This money shall be deposited before the SHO, PS Nand Nagri within two weeks. The concerned SHO shall ensure that the money is paid to the victim Tahira. Compliance report will be submitted within one month from today. 6 Appeal disposed off in the above terms. INDERMEET KAUR, J MARCH26 2014/A