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Nafis vs State & Ors.

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Court : Delhi

Decided On : May-05-2026

Judge : Hon'Ble Mr. Justice Saurabh Banerjee

Appeal No. : CRL.REV.P./414/2017

Appellant : NAFIS

Respondent : State & Ors.

Advocate for Def. : Ms. Meenakshi Dahiya, Ms. Vanshika Singh, Ms. Apoorva Khosla, Mr. Aditya Vikram Singh, Mr. Archit Upadhyay

Advocate for Pet/Ap. : Mr. Noor Alam

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.REV.P. 414/2017 NAFIS .....Petitioner Through: Mr. Noor Alam, Advocate alongwith petitioner in person

versus

STATE & ORS. .....Respondents Through: Ms. Meenakshi Dahiya, APP for the State with Ms. Vanshika Singh, Ms. Apoorva Khosla and Mr.

Aditya Vikram Singh, Advocates alongwith SI Pankaj Kumar, PS Bhajan Pura Mr. Archit Upadhyay, Advocate (DHCLSC) for R-3

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% 05.05.2026

1. Although the present petition was filed as an appeal, however, vide

order dated 26.05.2017, this Court converted the same into a revision

petition.

2. Briefly put, the private respondents (respondents no.2, 3 and 4)

stood trial in the court of Sessions in Sessions Case No. 136/2006, arising out of FIR No.315/2002 registered at PS Bhajanpura and were held guilty and convicted by judgment dated 18.08.2006 for offence punishable under Section 308 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. By order on sentence dated 21.08.2006, the private respondents

were sentenced to undergo imprisonment for the period already undergone with fine of Rs.5,000/- each, out of which an amount of Rs. 10,000/- was to be given to the victim as compensation under Section 357(3) of the Code of Criminal Procedure, 1973 (Cr.P.C.).

4. The petitioner/complainant by way of the present revision petition has challenged the said order on sentence dated 21.08.2006 (impugned

order).

5. Learned counsel for the petitioner submits that the impugned order

on sentence is bad in law as well as on facts since the learned Trial Court has exercised its sentencing discretion while awarding the sentence in an arbitrary manner by showing undue leniency towards the private respondents. He submits that though the private respondents were convicted for an offence under Section 308/34 IPC, an offence exclusively triable by the Court of Sessions and non-compoundable, the Trial Court had only sentenced them with the period undergone i.e., six days along with a nominal fine.

6. Per contra, learned counsel for the respondent nos.3 and 4 submits

that in view of the reasonings given by the learned Trial Court in the impugned order on sentence, no interference is required therein, and that too in revisional jurisdiction. He submits that the learned Trial Court has duly weighed the aggravating and mitigating factors while passing the impugned order. For this, he has drawn attention of this Court to the relevant portion of the impugned order which, for ease of reference is reproduced as under:-

4. I have considered the rival contentions and aggravating and mitigating circumstances. The scuffle took place on a property dispute and it has also come on record that the parties are looked in various other litigations. The injury on the person of the injured though was on his head but it has been opined as simple. In my opinion and in such cases of petty dispute and where parties are related to each other, no useful purpose would be served in confining the convicts in imprisonment rather it be just and proper that some compensation be given to the injured. The convicts have already remained in J/C for few days. [Emphasis Supplied]

7. He then submits that Section 3081 IPC does not even prescribe for

any minimum period of imprisonment. In fact, it is upon the discretion of the Court to impose any sentence which may extend up to seven years, or fine, or both.

8. Heard learned counsel for the parties and perused the record.

9. That the determination of quantum of sentence is always a

> discretion of the Court is a settled position of law, and that it has to be exercised after careful consideration of various factors like the nature of offence, the circumstances in which it was committed, the degree of deliberation shown by the offender, and other relevant mitigating and aggravating considerations, also does not need any deliberation.

10. In the case at hand, a perusal of impugned order reflects that the learned Trial Court while awarding the sentence of period undergone i.e., six days along with fine to the private respondents, has taken into account

308. Attempt to commit culpable homicide.-Whoever does any act with such intention

> or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or

various mitigating circumstances like relation of the parties with each other, that they were engaged in multiple litigations inter se themselves, that the incident arose out of a property dispute, and especially that even though injury was inflicted on a vital part of the body, the same was of simple nature.

11. Under these circumstances, as also since Section 308 IPC though

does not prescribe for any minimum period of imprisonment, however, give a wide discretion upon the Court regarding quantum of sentence, and particularly considering, that the present is a revision petition wherein the scope of interference by this Court is limited, and the Courts should not upset the findings merely on the basis that another view is possible. As such there is hardly any scope of interfere by this Court with the impugned

order on sentence dated 21.08.2006.

12. Accordingly, in view of the afore-stated reasoning, the present petition is dismissed.

SAURABH BANERJEE, J.

MAY 05, 2026/rr with fine, or with both.

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