

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment Reserved on: 26th October, 2009*
Judgment Delivered on: 29th October, 2009

+ **CRL.Rev.P.No.226/2002**

TILAK RAJ Petitioner
Through: Mr.Rajesh Mahajan, Advocate.

Versus

STATE Respondent
Through: Mr.Manoj Ohri, APP with
SI Raghubir Singh,
P.S.Hari Nagar.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

INDERMEET KAUR, J.

1. Ms.Sudesh Guglani PW-1 is the complainant. On 1.8.1993 at about 8.30 PM, she had gone for some purchases accompanied by her daughter Shalini. On her return, she was chased by the accused who snatched her chain. After snatching the chain, the accused ran away. PW-1 raised a cry. Avtar Singh PW-2 and Gurminder Singh PW-3, neighbours in the vicinity heard her cries and managed to apprehend the culprit i.e. the accused. Chain

was recovered from him; it was identified by PW-1 as her robbed ornament.

2. Statement Ex.PW-1/B of PW-1 was recorded pursuant to which the present FIR Ex.PW-4/A was registered under Section 379/356 of the IPC by HC Krishna Singh PW-4. Avtar Singh has been examined as PW-2. He had chased the accused and overpowered him. The chain was recovered from his right hand. Gurminder Singh has been examined as PW-3; he has also corroborated the aforestated version of PW-2.

3. In view of the aforestated evidence collected, the Trial Court vide judgment dated 22.2.2002 convicted the accused for the offence punishable under Section 379/356 of the IPC. Vide order of sentence dated 27.2.2002 the convict had been sentenced to undergo RI for one year and to pay a fine of Rs.1000/-; in default of payment of fine to undergo SI for two months for the offence punishable under Section 379 of the IPC; for the offence punishable under Section 356 of the IPC he had been sentenced to undergo RI for one year. Both the sentences were to run concurrently.

4. This judgment of the trial court was assailed before the Additional Sessions Judge who vide judgment dated 2.4.2002 had dismissed the appeal. No modification was made in the sentence awarded.

5. Perusal of the records establishes that the conviction awarded suffers from no infirmity; the evidence led before the Trial Judge which included four witnesses on behalf of the prosecution has fully affirmed the charges levelled against the accused for the offences punishable under Section 379 as also under Section 356 of the IPC. Statement of PW-1 is categorical in this regard. Accused has been apprehended from the spot. The chain had been seized vide recovery memo Ex.PW-1/A.

6. The counsel for the petitioner has also not assailed the conviction; he has confined his arguments on the point of sentence. On the point of sentence, it is submitted that the accused is a one time offender; at the time of sentence he was in his mid twenties which was in the year 2002 and as on date he would be in his early thirties. He is a married man having a wife, three children and an aged mother. Keeping in view the nature of the offence i.e. a case of simple chain snatching which act was most likely an impulsive act committed on the spur of the moment, leniency be awarded in sentence.

7. The nominal roll of the appellant shows that he has already undergone more than half of the sentence and as on 23.7.2002 i.e. the date of his release on bail on which date the unexpired portion of his sentence was five months and 26 days.

8. Status report about the antecedents of the convict has been placed on record. As per the record available the petitioner is not involved in other criminal case except the aforementioned one.

9. The Supreme Court in case of B.G.Goswami v. Delhi Administration 1973 SCC (Cri.) 796 observed as under

“Now the question of sentence is always a difficult question, requiring as it does proper adjustment and balancing of various considerations which weigh with a judicial mind in determining its appropriate quantum in a given case. The main purpose of the sentence broadly stated is that the accused must realize that he has committed an act which is not only harmful to the society of which he forms an integral part but is also harmful to his own future, both as an individual and as a member of the society. Punishment is designed to protect society by deterring potential offenders as also by preventing the guilty party from repeating the offence; it is also designed to reform the offender and reclaim him as a law abiding citizen for the good of the society as a whole. Reformatory, deterrent and punitive aspects of punishment thus play their due part in judicial thinking while determining the question. In modern civilized societies, however, reformatory aspect is being given somewhat greater importance. Too lenient as well as too harsh sentence both lose their efficaciousness. One does not deter and the other may frustrate thereby making the offender a hardened criminal. In the present case, after weighing the considerations already noticed by us and the fact that to send the appellant back to jail now after seven years of the agony and harassment of these proceedings when he is also going to lose his job and has to earn a living for himself and for his family members and for those dependent on him, we feel that it would meet the ends of justice if we reduce the sentence of imprisonment to that already undergone but increase the sentence of fine from Rs.200 to Rs.400. Period of imprisonment in case of default will remain the same.”

10. Keeping in view the fact that the petitioner has suffered the sentence of more than six months and the offence committed goes back to the year 1993 i.e. more than sixteen years ago, the petitioner since having been released on bail and having established his roots in society, it would be unjust and unfair to send him for incarceration; he is sentenced to the period of imprisonment already undergone.

11. The petition is disposed of accordingly.

(INDERMEET KAUR)
JUDGE

29th October, 2009
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