

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

+ CRL.A. 513/2006 with Crl. M.A. 11618/09

SURAJ @ SURESH

..... Appellant

Through: Mr. Sumeet Verma, Advocate.

versus

STATE (NCT) OF DELHI

..... Respondent

**Through: Mr. Lovkesh Sawhney, Addl.
PP for the State.**

*** CORAM:
HON'BLE MR. JUSTICE V.K. JAIN**

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| 1. | Whether the Reporters of local papers
may be allowed to see the judgment? | No |
| 2. | To be referred to the Reporter or not? | No |
| 3. | Whether the judgment should be
reported in the Digest? | No |

: V.K. JAIN, J. (oral)

1. This is an appeal against the judgment dated 22nd March, 2005 and Order On Sentence dated 24th March, 2005 whereby the appellant Suraj @ Suresh was convicted under Sections 452/393/394/398/34 of IPC and under Section 25 of Arms Act and was sentenced to undergo RI for 3 years and to pay a fine of Rs. 500/- or to undergo RI for 3 months in default u/s 452 of IPC r/w Section 34 thereof and was further sentenced to undergo RI for 4

years and to pay a fine of Rs. 500/- or to undergo RI for 3 months in default u/s 393/34 of IPC. He was further sentenced to undergo RI for 5 years and to pay a fine of Rs. 1,000/- or to undergo RI for 6 months in default u/s 394 of IPC r/w Section 34 thereof. He was also sentenced to undergo RI for 7 years and to pay a fine of Rs. 2,000/- or to undergo RI for 6 months in default u/s 398/34 of IPC. He was lastly sentenced to undergo RI for one year and to pay a fine of Rs. 500/- or to undergo SI for one month in default under Section 25 Arms Act.

2. The case of the prosecution is that on 22nd December, 2003, the complainant Raj Kumar Garg and his son in law Naresh Singhla were sitting in his house, when the door bell rang. When the door was opened by him, three persons were found standing outside. One of them put a knife on his neck and pushed him towards the bed room. All of them entered his house and asked him to handover the cash and jewellery kept in the house. He was given a knife blow on his ear and hand. His wife and daughter in law also came there and raised alarm, whereupon persons from the public gathered there. Two of the culprits managed to run away

whereas one of them was apprehended on the spot along with a knife.

3. The complainant came in the witness box as PW-3 and stated that on 22.12.2003 at about 10.20 pm when he was sitting in the bed room along with son in law, someone rang the door bell. On opening the door he found three persons present outside. Those persons pushed him inside and entered the house. All of them were having knife with them. One knife meant for meat cutting was kept on his neck, he was asked to handover the cash and jewelry kept in the house. When he resisted, he was given blow near his right ear and on his right wrist as well as on the little finger of his right hand. His daughter in law and wife came there, whereas his son in law threw a suitcase on the intruders. Consequently two of the persons managed to run away whereas the third one was apprehended on the spot and handed over to the police. The witness identified the appellant Suraj as the person who was apprehended on the spot. The testimony of the complainant has been corroborated by his wife PW-4 Smt. Pushpa Rani, PW-5 Shri Naresh Singhla, who is son in law of the complainant, and PW-8 Neha Garg, who is his daughter in law.

4. Learned counsel for the appellant states that considering the evidence produced during trial, he does not press the appeal on merits. He further states that since the appellant has already spent more than 6 years in jail and has also earned remission of more than a year, the only prayer made by the appellant is that the period of imprisonment in default of payment of fine be reduced.

5. Keeping in view the period already spent by the appellant in jail and his financial incapacity to pay the amount of fine, the period of imprisonment in default of payment of fine is reduced to 15 days each under Sections 452,393,394 and 398 of IPC and under Section 25 of Arms Act.

With this modification, this appeal (Crl. A No. 513/2006) as well as Criminal Miscellaneous Application No. 11618/2009, seeking waiver of fine, stand disposed of.

**V.K. JAIN,J
JUDGE**

NOVEMBER 17, 2009/acm