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

+ **CRIMINAL APPEAL NO. 277/2002**

**Date of decision: 5<sup>th</sup> October, 2010**

ANNAMUL ..... Appellant  
Through Ms. Radhika Chandrasekhar,  
Advocate (Amicus Curiae).

versus

STATE ..... Respondent  
Through Mr. Arvind Kumar Gupta, APP for  
the State.

**CORAM:**  
**HON'BLE MR. JUSTICE SANJIV KHANNA**

**ORDER (ORAL)**

1. The appellant has not been served. As per report received from the trial court, the appellant was released from jail after expiry of his sentence and on payment of requisite fine imposed. In these circumstances, I hereby appoint Ms. Radhika Chandrasekhar, Advocate, who is present in the Court as Amicus Curiae.

2. By the impugned judgment dated 9<sup>th</sup> October, 2001 the appellant has been convicted under Section 328/379/411 of the Indian Penal Code, 1860 (hereinafter referred to as IPC, for short). By the impugned order on sentence dated 27<sup>th</sup> October, 2001 the appellant was sentenced to rigorous imprisonment of four years along with fine of Rs.5,000/- and in default undergo simple imprisonment for six months for the offence under Section 328 IPC. There is no separate order of sentence for the offence under Section 411 IPC.

3. As per the findings of the learned trial court, the appellant along

with two others, including co-accused Imman-ud-din (who has been declared as proclaimed offender) on 20<sup>th</sup> June, 1993 at about 12.45 a.m. had administered drugs or intoxicated Raju, Sat Narain, Prem Chand, Vidya Nand and Shivaji Paswan at the Delhi Main Railway Station and had committed theft of their belongings.

4. Four out of the said five victims had appeared in the witness box and testified that they were given biscuits and tea to eat at the Railway Station by the appellant and two others and thereafter they became unconscious. PW-2, Sat Narain had identified the appellant in the court and he had also stated that his belongings including one wrist watch was missing. He was taken to the hospital. PW-5, Prem Chand has repeated the same allegations. Similarly, PW-4, Vidya Nand has stated that after having biscuits and tea they felt giddiness and became unconscious. They were then taken to the hospital. Thereafter, they found their belongings attachi, cash, money, etc. were missing. Thus, PW-2, Sat Narain, PW-4, Vidya Nand and PW-5, Prem Chand had identified the appellant in the court. PW-3, Raju had stated that three persons had given them tea and biscuits and drugged them. He could not, however, identify and state whether the appellant present in the court was the same person who had drugged them.

5. In addition to these three witnesses, we have evidence of PW-10, Inspector S.S. Joshi and PW-11, Inspector Rajendra Singh, who were on duty at Delhi junction on 20<sup>th</sup> June, 1993. PW-10, Inspector S.S. Joshi has stated that about 12.30 a.m. at night they saw some passengers sleeping at the platform but some persons were searching pockets of the said passengers. He noticed that the two persons were feeling giddy and were about to fall to the ground. In these circumstances, they became suspicious and apprehended the appellant-Annamul and another person Immamuddin. They were informed by others that the accused had robbed them of their suitcase and belongings. Later on they came to

know that their names were Sat Narain and Prem Chand. PW-11, Inspector Rajendra Singh has stated that they over powered the appellant-Annamul and Immamuddin (who as stated above, was declared as proclaimed offender) and found five persons lying on the ground almost in unconscious condition. On personal search, they recovered one wrist watch and yellow powder wrapped in a piece of newspaper from the possession of appellant-Annamul. The yellow powder was sealed with the seal of RSP vide seizure memo Exhibit PW-7/A. The victims were taken to the hospital and their statements were recorded in the hospital.

6. The CFSL report Ex PW-PX placed on record relates to seven samples. Three samples consist of the stomach wash of the three victims, viz., Sat Narain, Prem Chand and one unknown. The stomach wash was found to be containing Diphen Hydramine and Methaqualone (Mandrax). Similarly, the yellow powder recovered from the appellant was also found to be containing the same chemicals.

7. In view of the aforesaid evidence, I do not see any error in the judgment convicting the appellant for offence under Section 328/379 IPC.

8. PW-3, Raju had also identified the wrist watch, which was stolen, vide identification memo Exhibit PW-3/A. Offence under Section 411 is also, therefore, established.

9. As noticed above, the learned trial court had sentenced the appellant only under Section 328 IPC for rigorous imprisonment for a period of four years. The said sentence under Section 328 IPC is maintained. The offence under Section 379 IPC is punishable upto a term which may extend to three years or with fine or both. Similarly, offence under Section 411 IPC is punishable with a term, which may extend to three years with fine or both. The punishment awarded to the appellant under Section 328 IPC, as noticed above, is four years rigorous

imprisonment. In these circumstances, no further direction for sentence under Section 379 and 411 IPC is being passed as the appellant has already undergone punishment of four years. The appellant is treated as awarded and as having undergone the maximum sentence of 3 years awarded in the said Sections.

10. The appeal is accordingly dismissed.

11. Learned Amicus Curiae will be paid Rs.5,000/- by the Delhi High Court Legal Services Committee for having rendered assistance.

**SANJIV KHANNA, J.**

**OCTOBER 05, 2010**  
**VKR**