

9.

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

+ CRIMINAL APPEAL NO. 384/2002

Date of decision: 5th October, 2010

PRADEEP

..... Appellant

Through Ms. Anu Narula, 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. Pradeep Kumar, the appellant, has not been served. The appellant has already undergone the sentence awarded by the learned trial court. Ms. Anu Narula, Advocate, who is present in the Court is appointed as Amicus Curiae.

2. The appellant has been convicted under Section 392 read with Section 397 of the Indian Penal Code, 1860 (hereinafter referred to as IPC, for short) and has been sentenced to undergo rigorous imprisonment of seven years.

3. Learned trial court has held that the appellant along with two others, viz., Sanjay Kumar and Hari Ram had robbed the complainant-Tilak Raj of wrist watch and Rs.135/- after showing him a razor on 3rd November, 2000 near Straight Entry Road on C.F. Road, Delhi.

4. The victim-Tilak Raj had appeared as PW-1 and has stated that on 3rd November, 2000 at about 7.45 p.m. he was going towards New Delhi Railway Station via C.F. Road. When he reached the corner of the road,

he was stopped by the three accused, who were present in the court, including the appellant herein. The two of them including the appellant herein pointed razors at him and the third accused, viz., Hari Ram removed Rs.135/- from his right side pant pocket. Accused Sanjay put his razor on his left side and removed his wrist watch. After committing the robbery, they pushed and threatened him that in case he would make a noise, they would kill him. However, PW-1, raised a noise and the police officials on patrol duty came there and apprehended them. The wrist watch of the complainant was recovered from Sanjay Kumar and two razors were also recovered from the Sanjay Kumar and the appellant-Pradeep Kumar. Rs.135/- was recovered from accused Hari Ram. In his cross-examination, the said witness identified the razors, which were marked Exhibit P-1 and P-2. He also identified the recoveries in form of money and wrist watch, which were marked Exhibit P-3 and P-4. In his cross-examination, PW-1 has stated that the accused were apprehended at a distance of about 200-300 meters from the place they robbed the PW-1 and he had made noise after the accused had committed the act of robbery. He has stated that some persons from the public coming from the opposite direction had helped in nabbing the accused.

5. PW-3, Constable Satbir has stated that on 3rd November, 2000 he was posted at Police Station Pahar Gunj and he along with ASI Ras Dhari Singh, Constable Gunwant and Constable Suresh were on patrol duty. At about 8 p.m. they were going towards the C.F. Road via Straight Entry road when they saw three accused persons, who were present in the court, running from the side of C.F. Road. He was being chased by PW-1, who was shouting “catch catch (pakro pakro)”. The three persons were apprehended and a wrist watch was recovered from the accused Sanjay. He was also carrying a razor in his right hand. The appellant-Pradeep was also carrying a razor. Rs.135/- was recovered

from Hari Ram. The said witness has stated about preparation of the seizure memos and sealing of the recovered articles/weapons. Evidence of PW-1, Tilak Raj and PW-3, Constable Satbir is lucid, clear and reliable. The cross-examination has not dented their statements. PW-4, Constable Suresh Kumar, PW-5, Constable Gunwant and PW-6, ASI Rasdhari Singh have also confirmed and corroborated the said facts that they were on patrol duty on 3rd November, 2000 at 7.45 p.m. and in front of gali C.F. Road they saw three boys running and another person was chasing them and was shouting “catch catch (pakro pakro)”. They apprehended the three boys. They later on came to know that PW-1 had been robbed of Rs.135/- and a wrist watch by these persons after showing razors. PW-4, Constable Suresh Kumar, PW-5, Constable Gunwant and PW-6, ASI Rasdhari Singh were cross-examined but they have reiterated and reaffirmed the aforesaid facts.

6. In the statement made by the appellant-Pradeep Kumar under Section 313 Cr.P.C. he has denied all the allegations put to him but has not given any alibi.

7. In view of the aforesaid findings, there is no merit in the present appeal and the same is accordingly dismissed. I also do not find any reason to interfere with the order on sentence as sentence of seven years rigorous imprisonment is the minimum sentence prescribed under Section 397 IPC.

8. 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**