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

+ **CRL. Appeal No.676/2008**

% *Judgment delivered on: 20th October, 2011*

MOHD. AISH UR REHMAN Appellant
Through : Mr. S.N. Thakur, Adv.

versus

STATE Respondent
Through : Ms.Fizani Hussain, APP
with ASI Shailender PS-Spl. Cell
Range.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

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

SURESH KAIT, J. (Oral)

1. Vide order dated 06.07.2011, Crl.M.A. No.6454/2011 for early hearing was allowed on the ground that the applicant has already undergone incarceration for substantial period of sentence of seven years RI awarded to him. Accordingly Registry was directed list the Appeal on 21.09.2011 in the category of "after notice miscellaneous matters"

2. On 21.09.2011, since the LCR was not available as reported to have been sent for digitization, this matter was adjourned on 19.10.2011.

3. Vide the said order, jail authorities were directed to produce the appellant on the next date and the same has been complied with.

4. The appellant was arrested on 11.05.2005. Since then, he is in custody. The petitioner has completed 6 years 5 months and 8 days in jail as on date.

6. Ld. Counsel for the Petitioner submits that he did not dispute the conviction order. Further he is requesting to modify the sentence order dated 04.04.2008 already undergone, whereby the appellant was directed to RI for 7 years and a fine for Rs.50,000/- was also imposed for an offence U/s 489C IPC.

7. Further submits that since the date of arrest throughout, he remained in jail. He never even sent for socializing with his family as per the policy of the Government.

8. In my opinion, the Petitioner has suffered substantial period of RI in jail as he is in Jail for 6 years 5 months and 8 days out of the total sentence of 7 years. The substantive justice would be, if I accept the request of the Ld. Counsel of the Appellant.

9. Therefore, in the interest of justice, while maintaining the conviction, I modify the order of sentence dated 04.04.2008 to the extent already undergone.

10. Jail authorities are directed to release the appellant forthwith.

11. Copy of this order be sent to the jail authorities.

12. *Dasti.*

13. Appeal stands disposed of.

SURESH KAIT, J

October 20th 2011

JG