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

DECIDED ON : 25th JULY, 2013

+ **CRL.A. 481/2012 & CRL.M.B. 1035/2013**

SALIM

..... Appellant

Through : Mr.Sunil Tiwari, Advocate.

versus

STATE

..... Respondent

Through : Mr.M.N.Dudeja, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.Garg, J. (Open Court)

1. Salim (the appellant) challenges a judgment dated 30.03.2012 of learned Additional Sessions Judge in Sessions Case No. 122/2011 arising out of FIR No. 158/2007 PS Civil Lines by which he was convicted under Section 412 IPC and sentenced to undergo RI for four years with fine ₹ 5,000/-.

2. Allegations against the appellant were that he received or retained 28 bags of plastic raw material (plastic dana) from the dacoits - Vikram @ Ganja, Sameer @ Sonu, Raj Kumar and Ashok Kumar

knowing or having reasons to believe that it was a robbed property on 01.07.2007 at House No. E-3/27, Andhsar Colony, Laxmi Nagar, Delhi. During the course of investigation, statements of the witnesses conversant with the facts were recorded. The accused persons were arrested. After completion of investigation, a charge-sheet was submitted against the appellant. The prosecution examined fourteen witnesses. In his 313 statement, the appellant pleaded false implication. After considering the rival contentions of the parties and appreciating the evidence on record, the Trial Court, by the impugned judgment, held the appellant guilty for the offence mentioned previously and sentenced him accordingly. Being aggrieved, he has preferred the appeal.

3. During the course of hearing, appellant's counsel on instructions stated at Bar that he has opted not to challenge his conviction under Section 412 IPC and accepts it voluntarily. He however, prayed to take lenient view as the appellant has already undergone substantial period of sentence awarded to him and he is not a previous convicts.

4. I have heard the learned counsel for the parties and have examined the record. Since the appellant has not opted to challenge findings of the Trial Court on conviction under Section 412 IPC, his conviction stands affirmed.

5. The appellant was sentenced to undergo RI for four years with fine ₹ 5,000/-. Nominal roll dated 18.07.2013 reveals that he has already undergone one year, four months and four days as on 18.07.2013. He also earned remission for four months and seventeen days. Nominal roll further reveals that he is not a previous convict and is not involved in any criminal case. His overall jail conduct is satisfactory. He has three children to take care of them. His parents have expired.

6. Taking into consideration these mitigating circumstances, the substantive sentence of the appellant – Salim is reduced from four years to two and a half years with fine ₹ 1,000/- and in default of payment of fine, he shall further undergo SI for a period of fifteen days.

7. Appeal stands disposed of in the above terms. Pending application also stands disposed of.

(S.P.GARG)
JUDGE

JULY 25, 2013
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