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

DECIDED ON : 17th May, 2013

+ **CRL.A. 875/2012 & CRL.M.A.13299/2012**

**DELHI ADMINISTRATION THROUGH DESIGNATED
OFFICER**

..... Appellant

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

versus

RAM KUMAR

..... Respondent

Through : Mr.Vishwa Ranjan Kumar,
Advocate with respondent present
in person.

**CORAM:
MR. JUSTICE S.P.GARG**

S.P.GARG, J. (OPEN COURT)

1. Present appeal has been preferred by the appellant under Section 377 Cr.P.C. against the order dated 28.03.2011 passed by the learned Additional Sessions Judge, New Delhi in Crl.A.No.14/2010 under Section 16(1) (c) of Prevention of Food Adulteration Act, 1954 by which the sentence awarded to the respondent by Learned Metropolitan Magistrate vide order dated 18.03.2010 to undergo RI for a period of one year with fine of ₹5,000/- was modified to SI for six months with fine of ₹5,000/-.

2. Notice of the appeal was sent to the respondent. On appearance, counsel for the respondent produced on record order dated 03.08.2012 of this Court in Crl.Rev.P.No.227/2011 filed by the

respondent. The respondent had challenged his conviction and sentence passed by the learned Metropolitan Magistrate and subsequently modified by learned Additional Sessions Judge vide order dated 28.03.2011.

3. During the course of hearing of the Crl.Rev.Petition, the respondent did not opt to challenge his conviction but prayed for lenient view as he was 63 years old and was diabetic. Considering the facts and circumstances of the case and the prayer of the respondent, conviction was upheld but the order of sentence was modified and the respondent was directed to be released for the sentence already undergone by him. The fine has since been deposited by him.

4. The State did not challenge the order dated 03.08.2012 which has attained finality. Since the impugned order has been upheld in Crl.Rev.P. No.227/2011 and respondent's sentence was modified to undergo the sentence for the period already spent by him which was below six months, the present appeal is not maintainable.

5. In the light of above discussion, the appeal lacks merits and is dismissed. Crl.M.A.No.13299/2012 also stands disposed of.

(S.P.GARG)
JUDGE

May 17, 2013

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