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

+ CRL.A. 275/2011

DINESH KUMAR & ANR.

..... Appellants
Through :Ms. K.B. Hina, Adv. with appellants
in person.

versus

STATE

..... Respondent
Through : Mr. Yogesh Verma, APP for State.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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06.05.2015

1. Appellants have been convicted under Sections 452/392/34 IPC by the trial court and sentenced to undergo rigorous imprisonment for a period of three years and eight months with fine of ₹5,000/- and in default of payment of fine to undergo simple imprisonment for a period of three months under Section 452 IPC; rigorous imprisonment for a period of three years and eight months with fine of ₹5,000/- and in default of payment of fine to undergo simple imprisonment for a period of three months under Section 392 IPC. Both the sentences have been directed to run concurrently. It may be noted that co-convict Sabia was also convicted under Section 392 IPC but she has been released on probation by the trial court.

2. As per the prosecution, appellants along with co-convicts Sabia, Pankaj

and Basant (Proclaimed Offender) had entered the house of Ms. Zahida at about 12:00 PM and snatched her gold chain and escaped in a white colour Maruti Esteem car. Smt. Zahida has been examined as PW1 and has supported the prosecution story. PW2 Shri Sultan is eye-witness to the incident and has also supported the prosecution story. PW3 Shri Rakesh Kumar Jain deposed that on 20th June, 2007 at about 11:45 PM, he saw one white colour Esteem car near his ration shop. After some time, he heard some noise and saw 3-4 boys coming out from the house of Mahboob Bhai and running towards the Esteem car. He further deposed that he tried to chase them but they escaped. However, he has not identified the appellants. Other witnesses, examined before the trial court, are the police officials having joined the investigation at one stage or the other. Trial court has found the testimonies of PW1 and PW2 to be trustworthy and reliable and has convicted the appellants.

3. During the course of hearing, learned counsel for the appellants has given up challenge to their conviction on merits. I have also perused the impugned judgment and record of the trial court. Learned counsel for the appellants has failed to point out any material discrepancy and/or illegality in the impugned judgment, inasmuch as has given up the challenge to conviction of appellants. Accordingly, conviction of the appellants is affirmed.

4. Learned counsel for the appellants has contended that appellants belong

to lower strata of society. They have no past criminal case. They were released on bail during the pendency of the appeal on 3rd March, 2011. During the pendency of the appeal also, they have not indulged themselves in any crime. This is the only solitary case in which they are involved. Appellants are married and have minor children to look after. Out of the sentences awarded to them, appellants have already undergone 18 months and in case they are sent back to jail to undergo remainder sentence, whole family will face starvation as appellants are the only earning hand in their respective families.

5. Keeping in mind the totality of circumstances, sentences of the appellants are reduced to the period already undergone by them. Fine is stated to have been deposited and the receipts have been produced in Court. Photocopies of the receipts are taken on record. Personal bonds and surety bonds are discharged.

6. Appeal is disposed of in the above terms.

A.K. PATHAK, J.

MAY 06, 2015/rb