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

+ CRL.A. 395/2011

ASHFAQ & ORS Appellants

Through Mr. Ranjan Roy, Proxy Counsel.

versus

STATE & ORS Respondent

Through Mr. Mohit Mudgal, Proxy Counsel
with SI Sanjiv Kumar, P.S.
Connaught Place and ASI Bijender
Singh, Spl. Staff, New Delhi

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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11.05.2015

1. This appeal has been filed by the three appellants, namely, Ashfaq, Mohabbat @ Bauna and Mr. Sabbu. Appellants Ashfaq, Mohabbat @ Bauna and Mr. Sabbu have been convicted under Sections 393/34 of the Indian Penal Code, 1860 by the trial court and sentenced to undergo rigorous imprisonment for a period of five years with fine of ₹2,000/- and in default of payment of fine to undergo simple imprisonment for a period of two months.

2. On 29th September, 2014, Ashfaq was produced in Court from the jail and he gave up the challenge to his conviction on merits. He stated that he

had almost completed the substantive sentence, thus, was not interested in pursuing the appeal any further. His sentence was reduced to the period already undergone by him. He was directed to be released subject to deposit of the fine. Appellant Sabbu also gave up the challenge to his conviction on merits. Accordingly, appeal qua appellant nos. 1 and 3 was disposed of vide order dated 29th September, 2014.

3. Appellant no. 2 Mohabbat @ Bauna is present in Court along with his counsel and submits that he is also not challenging his conviction on merits. He also submits that his sentence may be reduced equivalent to the period, he has already undergone in jail. A perusal of nominal roll shows that he has completed substantive sentence of imprisonment of more than three years. He has completed three years and three months. He has no past criminal record. Vide order dated 24th July, 2013 his sentence was suspended during the pendency of appeal. He has not indulged himself in any other crime during the last about two years, which indicates that he has reformed himself. Appellant no. 2 is aged about 40 years and has a family comprising of his wife and six minor children. He is the sole bread-earner in the family. Fine has already been deposited by him, as is evident from a perusal of his nominal roll.

4. Keeping in mind the totality of circumstances, his sentence is reduced to the period already undergone by him while affirming his conviction under Sections 393/34 IPC. Personal bond and surety bond of appellant no. 2 Mohabbat @ Bauna are discharged.

5. Appeal is disposed of in the above terms.

A.K. PATHAK, J.

MAY 11, 2015

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