

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

% Order delivered on: 23rd February, 2015

+ **Crl. A. No.3/2014 & Crl. M.A. No.12440/2014**

DEEPU DASS @ BENGALI Appellant
Through Ms.Inderjeet Sidhu, Adv.

versus

STATE Respondent
Through Mr.M.P.Singh, APP for the State.

**CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH**

MANMOHAN SINGH, J.

1. The present appeal has been filed by the appellant under Section 374(2) Cr.P.C. against the judgment dated 26th August, 2013 passed by Addl. Sessions Judge, Tis Hazari Courts, Delhi, in Sessions Case No.67/2012, pertaining to FIR No.120/2012, PS Kotwali, whereby the appellant was held convicted under Section 392/34 IPC and vide order on sentence dated 31st August, 2013 was imposed the sentence of rigorous imprisonment for three years and to pay a fine of Rs.10,000/- and in default of payment of fine, further simple imprisonment for three months for the offence punishable under Section 392/34 IPC.

2. Brief facts are that the petitioner along with co-accused in furtherance of their common intention used the knife while committing the robbery of mobile phone and cash Rs.240/- of Munna Lal

(complainant) on 12th May, 2012 at about 8.15 p.m. in the *Shochalya* in front of Rain Basera, Fuwahara Chowk, Delhi. The FIR was recorded on the statement of Munna Lal and the petitioner and his co-accused were arrested. On completion of the investigation, they were charge-sheeted. Five witnesses were examined by the prosecution in support of its case.

3. In the statement recorded under Section 313 Cr.P.C., the petitioner denied his involvement in the present case and submitted that he has been falsely implicated in the present case and no mobile phone was recovered from his possession. However, he has failed to produce any witness in his defence.

4. In the present appeal, the appellant has challenged the judgment dated 26th August, 2013 and the order on sentence dated 31st August, 2013 on various grounds.

5. I have heard the learned counsel for the petitioner as well as the learned APP for the State. After going through the entire gamut of the matter as well as the grounds stated in the appeal, I am not inclined to set-aside the impugned judgment and order on sentence, as the same are sustainable. The same are accordingly upheld. However, considering the overall facts and circumstances of the case, coupled with the fact that the appellant has already undergone the substantive sentence as on 25th December, 2014 and he is undergoing sentence in default of payment of fine with effect from 25th December, 2014, I alter the sentence of imprisonment awarded to him to the period already undergone by him. The appellant be

released forthwith in the aforesaid FIR, if not required in any other case.

6. The appeal is accordingly disposed of. Pending application also stands disposed of.

(MANMOHAN SINGH)
JUDGE

FEBRUARY 23, 2015