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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 357/2015**

Date of Decision: 02.07.2015

DEENU

..... Petitioner

Through Mr. Udai Raj Singh, Adv.

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through Mr. Pramod Saxena, APP.
SI Ravi Shankar, PS Saket.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **02.07.2015**

Crl.M.A. No. 8946/2015

Exemption allowed, subject to all just exceptions.

Application is allowed accordingly.

Crl.Rev.P.357/2015 & Crl.M.B.7217/2015

1. The revisionist impugns the concurrent judgment of conviction and sentence of the Trial Court dated 23.02.2015/25.02.2015 and the Appellate Court judgment dated 06.06.2015, whereby he has been convicted under Section 411 IPC and has been sentenced to undergo RI for 1 year, fine of Rs. 2,000/- and in default of payment of fine further imprisonment for a period of 3 months, passed by the Trial

Court, in connection with FIR No. 260/2010 (PS Saket), which was affirmed by the Appellate Court in Criminal Appeal No. 9/2015.

2. One Smt. Sunita lodged a complaint alleging that on 14.9.2010 she was snatched of her gold chain (2 tolas) by two motorcycle borne youth. FIR was registered under Section 356/359 IPC, PS Saket.

3. The Petitioner was arrested in connection with another case and the gold chain was recovered. The Petitioner was thereafter interrogated and he made a disclosure statement on 12.11.2010.

4. The Petitioner refused to participate in the test identification parade on the plea that he was shown to the witnesses.

5. The gold chain was identified by the complainant during the Test Identification of case property. The Trial Court after examining 7 witnesses on behalf of the prosecution and two on behalf of the defence, convicted the appellant under Section 411 IPC and sentenced him as aforesaid.

6. Complainant Smt. Sunita (PW1), identified co-accused Amit as pillion rider who had snatched her gold chain. On the contrary SI Virender Singh (PW4), during his cross examination, stated that as per

the disclosure statements of the accused, the petitioner was the pillion rider who had snatched the gold chain.

7. So far as the incident of snatching is concerned, the offence was committed on 14.9.2010 at around 11 am and police swung into action immediately.

8. The Trial Court rightly believed the testimony of PW1 that she saw co-accused Amit snatching her chain. On this aspect, the evidence of SI Virender Singh PW4 was discarded as his information was based on the disclosure statement and he was not a witness to the occurrence.

9. The statements of the mother of the petitioner Smt. Bimla Devi and the mother of the co-accused, Smt. Som Wati, who were examined as DW1 and DW 2 respectively, indicating that the accused persons were taken for interrogation regarding some petty quarrel in the night intervening 9/10.11.2010 but were later falsely implicated in the present case, was disbelieved by the Trial Court.

10. The seizure memo of the gold chain (Ex. PW7/C) stood proved in the trial.

11. The Trial Court, consequently convicted the appellant under Section 411 IPC and sentenced him as stated above. The Appellate Court upheld the conviction and sentence recorded by the Trial Court.

12. This court, after examining the records of the case, is satisfied as to the correctness, legality and propriety of the findings leading to conviction.

13. It has been submitted at the bar, that the petitioner has remained in jail for 97 days.

14. Interest of justice would be served if the sentence imposed on the petitioner is modified to the extent of the period of custody which he has already undergone.

15. The sentence of the petitioner is accordingly modified as period already undergone.

16. The criminal revision petition is disposed of accordingly.

17. No order need be passed in CrI. M.B. No. 7217/2015 in view of the aforesaid modification of the sentence.

18. The Petitioner be released from jail forthwith, if not required in any other case.

19. A copy of this order would be transmitted to the superintendent of the concerned jail

(ASHUTOSH KUMAR)
Judge

JULY 02, 2015/ab