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

Judgment delivered on: 5th February, 2016

+ **CRL.A.No.443/2002**

SUBHASH CHAND SHARMA Appellant
Represented by: Mr.Sunil Tiwari & Mr.Amit Saini,
Advs.

Versus

STATE Respondent
Represented by: Mr.Arun Kumar Sharma, APP for
the State.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide instant appeal under Section 374 of the Cr P C appellant assailed the conviction judgment dated 09.04.2002 whereby he was held guilty for the offence punishable under Section 498A of the IPC and also assailed order on sentence dated 24.04.2002 vide which he was sentenced to two years rigorous imprisonment and fine of Rs.5,000/- in default of which further undergo rigorous imprisonment for three months. Benefit of Section 428 of the Cr P C was also extended to him.

2. Initially, vide case FIR No.365/1992 registered at police station Dabri, Delhi the case against the appellant was for the offences punishable under Sections 498A/304B of the IPC. However, during trial the prosecution has failed to establish its case beyond reasonable doubt under Section 304B of the IPC against appellant. Therefore, vide judgment dated 09.04.2002, learned Trial Court acquitted the appellant thereunder,

however convicted under Section 498A of the IPC.

3. Learned counsel appearing on behalf of appellant under instructions of appellant, who is personally present in the Court submits that he is not disputing the conviction order and judgment dated 09.04.2002, however, submits that the marriage of appellant and deceased took place on 16.05.1991 and the alleged incident is dated 27.09.1992. The deceased left a male child, who is dependent upon appellant. Three more children are therein the family from the second wife of appellant. He already suffered 23 years of litigation. Appellant is 47 years of age and has prayed that order on sentence dated 24.04.2002 may be modified and released for the period already undergone.

4. As noted above, the incident is of the year 1992. As of now, 23 years have rolled down and appellant and his entire family has suffered the litigation trauma over this span of time. He is having dependent wife and four children at the age of 47 years and has all their responsibility on his head. Out of four children, one is from the deceased. Therefore, the ends of justice would be met if appellant is released for the period already undergone in this case.

5. Accordingly, while maintaining the conviction order and judgment dated 09.04.2002, I hereby modify the sentence order dated 24.04.2002 to the extent that appellant be released for the period already undergone by him in custody.

6. The sentence awarded to the appellant was suspended vide order dated 30.05.2002 and directed to be released on bail by this Court. Accordingly, his bail bond cancelled and surety stands discharged.

7. In above terms, instant appeal is partially allowed and disposed of.
8. Trial Court Record be remitted back forthwith.

**SURESH KAIT
(JUDGE)**

FEBRUARY 05, 2016

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