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

Judgment delivered on: 11th January, 2016

+ **CRL.APPEAL No.957/2002**

VINOD KUMAR Appellant

Represented by: None.

versus

STATE Respondent

Represented by: Mr. Ravi Nayak, APP for State

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide the impugned judgment dated 04.09.2002, appellant was held guilty for the offences punishable under Section 394 read with Section 397 IPC and Section 27 of Arms Act in case FIR no. 346/2001, registered at PS-R.K. Puram. Consequently, vide order on sentence of even date, he was sentenced to undergo RI for a period of 7 years for the offence punishable under Section 394 IPC with fine of Rs.200/- and in default of payment of fine, he was further sentenced to undergo SI for one month.

2. Appellant was also sentenced to undergo RI for 7 years for the offence punishable under Section 397 IPC and for the offence punishable under Section 27 of Arms Act, he was sentenced to undergo RI for two years with fine of Rs.200/- and in default of payment of fine, he was further sentenced to under SI for one month. All the sentences were directed to run concurrently and benefit of Section 428 Cr.P.C. was also

given to the appellant.

3. Vide order dated 20.07.2005, the sentence of the appellant was suspended and he was directed to be released on bail upon his executing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the Id. trial court.

4. As per the report dated 15.12.2015 from the Deputy Superintendent, Central Jail No. 2, Tihar Jail, New Delhi appellant Vinod Kumar serving 7 years of RI was released from the Jail on 30.01.2007 on completion of sentence and payment of fine, It seems that the petitioner could not get the benefit of order dated 20.07.2005. Despite, the said order was modified vide order dated 08.12.2005.

5. It is important to note that to secure the presence of the appellant bailable warrants in the sum of Rs.10,000/- was issued against the appellant vide order dated 17.03.2015, despite appeared none on behalf of the appellant and thereafter, non-bailable warrants was also issued vide order dated 01.10.2005. However, it could not be executed as the appellant was not residing at the given address.

6. Such a situation has been dealt by the Division Bench of this Court in ***Mukesh v. State 152 (2008) DLT 201 (DB)*** and pertinent observations have been made as under:

'In most cases, the interests of convict may not be adequately safeguarded by the appointment of Advocates in Legal Aid Scheme or by Amicus Curiae. The appellant would be satisfied only if his appeal is argued by an Advocate of his choice. On the other hand, a party which chooses not to participate in the hearing of his appeal can scarcely complain of violations of his fundamental right to

*remonstrate against the curtailment of his personal freedom.
A convict cannot abuse the process and defeat criminal
justice'*

7. Recently, hon'ble Supreme Court in ***Mohd. Sukur Ali v. State of Assam (2011) 4 SCC 729*** has reiterated that a Criminal Appeal ought to be decided in the absence of the Counsel.

8. The aforesaid observations made in ***Mukesh (Supra)*** and ***Mohd. Sukur Ali (Supra)*** is aptly applied to the instant case. Moreover, none on behalf of the appellant, despite sufficient opportunities given and he has already been released on bail on completion of the sentence awarded by the Trial Court. Thus, it seems that appellant is not interested to pursue the present Appeal.

9. Accordingly, the present appeal stands disposed of.

**SURESH KAIT
(JUDGE)**

JANUARY 11, 2016

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