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

DECIDED ON : DECEMBER 21, 2016

+ **CRL.REV.P. 185/2016 & CrI.M.A.3933/2016**

RAVI

..... Petitioner

Through : None.

versus

STATE

..... Respondent

Through : Mr.Akshai Malik, APP.
SI Manish Chaudhary, PS Shahdara.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. Present petition has been preferred by the petitioner-Ravi to challenge the legality and correctness of judgment dated 27.07.2015 of learned Additional Sessions Judge in CrI.A.No.20/2015 by which the conviction and sentence awarded by the Trial Court vide orders dated 2.3.2015 in FIR No.327/2014 registered at Police Station Shahdara were endorsed. Status report is on record.

2. I have examined the file. The petitioner along with co-accused Rihan was convicted by the learned Metropolitan Magistrate on their plea of guilt. The petitioner challenged the conviction and sentence in appeal, which resulted in its dismissal vide judgment dated 27.07.2015. It is relevant to note that co-convict Rihan had already filed CrI.A.No.36/2015.

The learned Additional Sessions Judge accepted the said appeal; set aside the sentence and conviction awarded to Rihan and remanded the case for fresh trial. It is informed that co-accused Rihan is facing trial before the court of learned Metropolitan Magistrate.

3. Since the learned Additional Sessions Judge in Crl.A.no.36/2015 has remanded the case of co-accused Rihan for fresh trial and the said order has attained finality, the present petitioner cannot be treated on different footing. On parity his case also requires to be dealt with on merits irrespective of plea of guilt.

4. Considering the facts and circumstances of the case, the revision filed by the petitioner is accepted; conviction and sentence recorded by the court below are set aside. The matter is remanded to the Trial Court for disposal on merits along with co-accused Rihan.

5. The petitioner shall appear before the Trial Court on 10th January, 2017. If the petitioner continues to be in custody, he will be produced before the Trial Court on the said date.

6. The petition stands disposed of in the above terms. All pending application(s) also stand disposed of.

6. Trial Court record be sent back forthwith through Special Messenger with the copy of the order. Intimation be also sent to the Superintendent Jail.

(S.P.GARG)
JUDGE

DECEMBER 21, 2016/sa