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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.REV.P. 440/2016 & CrI.M.B. No.1201/2016 & 9946-9947/2016
JAGJIT SHARMA Petitioner
Through Ms.Shikha Kaushik, Adv.

versus

THE STATE GOVT OF NCT OF DELHI Respondent
Through Mr.Izhar Ahmad, APP for the State.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

% **ORDER**
23.08.2016

The present petition has been filed by the petitioner for setting aside the judgment dated 3rd May, 2016 passed by the learned Special Judge (PC Act), CBI-03, Dwarka Courts, New Delhi whereby the appeal of the petitioner has been dismissed and conviction of the petitioner by virtue of the order of learned Metropolitan Magistrate awarding the sentence of the simple imprisonment for a period of one year and compensation of Rs.4,00,000/-, has been upheld.

Undoubtedly, the moment appeal is dismissed by the Appellate Court, the accused is duty bound to surrender to undergo the period of the sentence awarded by the Trial Court. There is no provision by which the appellate Court could grant any period for making the surrender by the accused on the conviction and the appellate Court becomes functus officio.

In such scenario, the convicted is to surrender to undergo by virtue of the conviction order, to undergo the sentence. The non-availability of the petitioner in the present case led to issuance of non-bailable warrants against him but he is still not available.

Apparently, after the order dated 3rd May, 2016 till date, he has no right not to serve the period of sentence awarded by the courts. Even the counsel for the petitioner has submitted that the petitioner is not available.

In the facts and circumstances, the petition and applications are dismissed.

P.S.TEJI, J

AUGUST 23, 2016/aa