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

Date of hearing and order: 9th March 2016

+ CRL.REV.P. 681/2015 & Crl.M.B. 8001/2015

RAJ KUMAR

..... Petitioner

Through: Mr.Robin Singh Sirohi, Advocate.

versus

THE STATE (NCT) OF DELHI

..... Respondent

Through: Mr.Mukesh Kumar, APP for the State
with SI Satpal, PS Pahar Ganj.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

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P.S. Teji, J. (Oral)

1. By this petition filed under Section 397 read with Section 401 of the Cr.P.C., the petitioner seeks to challenge the judgment of conviction dated 05.12.2014 and order on sentence dated 16.02.2015 passed by learned Additional Chief Metropolitan Magistrate (Central), Delhi, whereby the petitioner had been convicted for offences punishable under Sections 356/379/411 IPC in case FIR No.116/2011 under Sections 356/379/411 IPC, Police Station Paharganj and has been sentenced to undergo simple imprisonment for one year and fine of Rs.2,500/- for offence under Section 379 IPC; simple imprisonment for one year and fine of Rs.2,500/- for offence under

Section 356 IPC, in default of payment of fine, he shall further undergo simple imprisonment for two months. The petitioner also seeks to challenge the orders dated 08.10.2015 whereby the appeal filed by the petitioner was dismissed by learned Additional Sessions Judge Central, Tis Hazari, Delhi.

2. The case of prosecution is that on 21.07.2011 at about 11.25 p.m. when the complainant was returning back from his work and about to enter his house, the petitioner snatched his mobile phone and tried to flee from the spot but could not succeed. The complainant apprehended the petitioner at the spot and made a call to police at no.100. The police officials reached at the spot and arrested the petitioner. The mobile phone recovered from the petitioner was seized at the spot and statement of the complainant was recorded. The petitioner was charged with the offence punishable under Section 356/379/411 IPC. The trial commenced and the prosecution had examined 7 witnesses to bring home the guilt of the petitioner. After concluding the trial the Trial Court vide judgement dated 05.12.2014 had held the petitioner guilty for the offence punishable under Section 356/379/411 IPC and was sentenced to undergo simple imprisonment for one year and fine of Rs.2,500/- for offence under Section 379 IPC and simple imprisonment for one year and fine of Rs.2,500/- for offence under Section 356 IPC, in default of payment of fine, he shall further undergo simple imprisonment for two months.

3. At the outset, the learned counsel for the petitioner does not press the present petition on the judgment on conviction but restricts

his arguments on the quantum of sentence only. Counsel for the petitioner submits that the petitioner has already undergone the sentence for a period of 10 months and only 6 months are left to be completed. The petitioner is a poor person and has a family to support, therefore the sentence imposed upon the petitioner be reduced to the period already undergone.

4. Mr. Rajat Katyal, Additional Public Prosecutor for the State appears on behalf of the State and submits that the sentence imposed upon the petitioner is justified and does not call for any interference from this Court.

5. I have heard learned counsel for the parties and have also gone through the impugned judgments and orders and the nominal roll of the petitioner.

6. After considering the submissions advanced by both the sides and upon perusal of the impugned order, I find that there is no illegality or infirmity in the impugned judgment of conviction of the petitioner-accused. However, on the quantum of sentence, this Court observes that the petitioner is a poor person and has a family to support, and this Court observes that the present case is of the year 2011 and the petitioner has already faced agony of these proceedings for about 5 years, and that he has already remained behind the bars in this case for about 10 months. Therefore, this Court is of the opinion that ends of justice would be met if the petitioner's substantive sentence is reduced. Consequently, the period of imprisonment is

reduced from one year to 9 months for the offence under Sections 356 and 379 IPC.

7. In view of the aforesaid discussion, the present revision petition is partly allowed on the quantum of sentence to the extent indicated above. Trial Court be apprised of this order forthwith by sending copy of this order.

8. The present revision petition is disposed of in aforesaid terms.

9. Application Crl.M.B. 8001/2015 is also disposed of.

P.S.TEJI, J

MARCH 09, 2016
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