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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : August 09, 2017

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CRL.A. 651/2001

OM PARAKASH SINGH

..... Appellant

Through : Mr.S.C.Sagar, Advocate with
appellant in person.

versus

STATE OF N.C.T. OF DELHI

..... Respondent

Through : Ms.Kusum Dhalla, APP for the
State with ASI Devender, PS
Dabri.

PRATIBHA RANI, J. (Oral)

1. The instant appeal under Section 374 of Code of Criminal Procedure has been preferred by the appellant impugning the judgment and order on sentence dated 18th August, 2001 and order on sentence dated 20th August, 2001 respectively whereby he has been convicted for committing the offence punishable under Section 235 IPC and sentenced to undergo RI for five years and to pay a fine of ₹1000/- and in default of payment of fine to undergo RI for one month.

2. Briefly stating, the case of the prosecution is that on 16th February, 1999 SI Udham Singh of PS Dabri received a secret information that counterfeit coins of ₹5/- were being manufactured by someone in a house in Indira Park Colony. SI Udham Singh constituted a raiding party and reached House No.235, Gali No.3,

Indira Park alongwith informer. The door of the house was found bolted from inside. He knocked the door and one person namely Sukhbir Sharma opened the door. On seeing the police party, that person became perplexed. Police informed him about the secret information and took his personal search during which ten fake coins of ₹5/- were recovered from the pocket of his pant. While accused Sukhbir Sharma was being searched, co-accused Om Prakash Singh i.e. the appellant herein came out of the inner room of the house and he was apprehended. Thereafter search of house was also taken and machinery and other articles for making fake coins were found lying there which were seized. Both the accused persons were arrested and on the basis of their disclosure statement, the third accused namely Ram Pratap Chauhan was arrested from his village Navli, Mathura, U.P.

3. Accused Ram Pratap Chauhan has been acquitted by the learned Trial Court.

4. Appellant Om Prakash Singh was charged for committing the offence punishable under Section 235 IPC to which he pleaded not guilty and claimed trial. The learned Trial Court after concluding the trial held the appellant guilty for committing the offence punishable under Section 235 IPC and sentenced him in the manner aforesaid.

5. Feeling aggrieved, the appellant has challenged his conviction and sentence by filing this appeal

6. The appellant is present in person alongwith the counsel. During the course of hearing, learned counsel for the appellant, on instructions, submits that the appellant is not challenging his

conviction in this case, however, prayer has been made to take a lenient view on the point of sentence and reduce the substantive sentence to the period already undergone by him in this case.

7. The appellant submits that he was the owner of the house where the raid was conducted by the police party. Though he was present there, he was not aware of the illegal activities being carried out by the co-accused Sukhbir Singh. The appellant submits that he was employed as labourer in the Army and had already lost his job. The appellant prays that a lenient view may be taken on the point of sentence as he has already spent about two years in custody in this case.

7. Though fresh nominal roll of the appellant was called for, report has been received from the Jail Superintendent, Central Jail No.10, Rohini, Delhi that record of the convict Om Praksh Singh S/o Sh.Sohan Pal Singh is not traceable in the said Jail.

8. However, the earlier nominal roll of the appellant is available on record as per which as on 8th January, 2002, the appellant has undergone one year, ten months and seven days out of the total sentence of five years awarded to him in this case. Vide order 18th January, 2002, the substantive sentence of the appellant has been suspended till the pendency of the appeal.

9. Taking into consideration that except his presence at the spot at the time of raid, there is no other evidence against him, while upholding the conviction of the appellant, the substantive sentence awarded to him under Section 235 IPC is reduced to the period already undergone by him.

8. It is made clear that the modification is only in respect of the substantive sentence awarded to the appellant under Section 235 IPC Act, which is reduced to the period already undergone by him in this case, however, the sentence of fine of Rs.1,000/- is maintained.

9. It is informed that fine amount of ₹1000/- has already been deposited.

10. The appeal is partly allowed and the impugned order on sentence is modified to the extent aforesaid.

11. TCR be sent back alongwith copy of this order.

12. Copy of this order be sent to the concerned Jail Superintendent for information.

13. As prayed, copy of the order be given dasti to learned counsel for the appellant under the signature of Court Master.

PRATIBHA RANI
(JUDGE)

AUGUST 09, 2017
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