

\$~2

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

+ **CRL.A. 212/2017**

JAVED

..... Appellant

Through: Mr. R.K. Sharma, Adv.

versus

STATE

..... Respondent

Through: Mr. Amit Gupta, APP for State with
SI Devender, P.S. Lahori Gate.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

%

03.08.2017

Crl. M.B. 336/2017

Since I intend to hear the appeal itself, present application has not been pressed and the same is disposed of accordingly.

Crl. A. 212/2017

With the consent of learned counsel for the appellant as well as learned APP, appeal is taken up for hearing. Trial court record perused.

Appellant has been convicted by the trial court for the offence under Sections 392 IPC and sentenced to undergo rigorous imprisonment for a period of 1 year with fine of ₹10,000/- and in default of payment of fine to further undergo simple imprisonment for 6 months. Fine is stated to have been deposited.

As per the prosecution, appellant along with co-convicts robbed

complainant-Ranjit Kumar Yadav of his mobile phone make of Samsung black colour bearing SIM No. 9818918521 and ₹230/- on 26th September, 2014 at about 09:30 pm at Pul Mithai, Lahori Gate, Delhi. Appellant and his accomplices were apprehended at the spot. Trial court has found the testimony of PW5 to be trustworthy and reliable and has noted that PW5 Ranjit Kumar Yadav (complainant) has identified the appellant in Court correctly. Trial court has also noted that PW2, PW3 and PW4 have supported the prosecution case. PW2 HC Prempal Diwakar, PW3 Ct. Nagesh Kumar and PW4 Ct. Sandeep were on patrolling duty and had seen the crowd beating the appellant and his accomplices. Trial court has also noted that appellant and his accomplices had not disputed their presence at the spot. The stand taken by them is that they were falsely implicated in the matter for the reason that they were consuming liquor at a public place.

During the course of hearing, learned counsel for the appellant has given up the challenge to the conviction of the appellant on merits. He has only pressed for the reduction of sentence. It is contended that appellant has no previous criminal record. Appellant has already completed about 8 months in incarceration. Jail conduct of the appellant is satisfactory. Appellant is a poor person. He is 30 years old having a family comprising

of his parents, wife and two children, who are totally dependent upon him.

Keeping in mind the totality of the circumstances, while upholding the conviction of the appellant under Section 392 IPC, his sentence is reduced to the period already undergone by him. Appellant be released from the jail, if not required in any other case.

Appeal is disposed of in the above terms.

Copy of the order be sent to the Superintendent Jail for serving it on the appellant and for compliance.

A.K. PATHAK, J.

AUGUST 03, 2017

ga