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

+ CRL.REV.P. 173/2017 & CrI.M.A.3744/2017 & CrI.M.B.394/2017
VEERU @ POTTA & ANR Petitioners

Through : Mr. Sandeep Verma, Adv.
versus

STATE (NCT OF DELHI) Respondent

Through : Mr. Amit Chadha, APP with SI
Madan Mohan PS Parliament Street.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **06.03.2017**

There are concurrent findings of the trial court and appellate court against the petitioners, regarding their guilt under Section 380/457(ii) IPC, on appreciation of evidence. Petitioners examined themselves in their defence. However, no other witness was examined by them in support of their defence. The only defence taken by them was that they were falsely implicated. They were playing in the park when the police officials came and apprehended them. Incident took place at 2:00 am and as per the prosecution, petitioners were apprehended at the spot by PW-3 and PW-5.

It is trite law that High court, in exercise of its revisional power under Section 397 of the Cr.P.C., has not to appreciate the evidence, which has already been appreciated by the trial court as well as the appellate court and

return a finding of fact as against the concurrent findings returned by the two courts below. The High Court will interfere only if the judgment suffers from any flagrant violation of any legal principle or where any grave perversity has occurred.

During the course of hearing, learned counsel for the petitioners has failed to point out any flagrant violation of any legal principle or grave miscarriage of justice. As per the prosecution, appellants were caught red handed by PW-3 and PW-5 at 2:00 am in the night of 20th August, 2006 while they were committing theft of copper plate of solar system installed at the roof of Kothi No.13-B, Firoz Shah Road, New Delhi. PW-5 lodged the FIR. PW-5 duly supported the prosecution and even identified the petitioners. PW-3 has also supported the incident except that he failed to identify the petitioners, but that itself would not be sufficient to give benefit of doubt to the petitioners since PW-5 has correctly identified the petitioners, inasmuch as petitioners were apprehended at the spot as confirmed by the PW-5, who has deposed about the arrest and has identified his signatures on the arrest memos, seizure memo etc. Copper plates and cutter were also recovered. It is the quality of the evidence and not the quantity that matters. Testimony of PW-5 alone is sufficient to base the

conviction.

Learned counsel for the petitioners has vehemently contended that no public witness has joined. I do not find any force in this contention. House was not owned by PW-5. He was merely working there. Why the PW-5 would falsely implicate the petitioners, more so when there was no past enmity between them.

Revision petition is dismissed. Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.

MARCH 06, 2017/dk