

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

Date of Order: June 05, 2017

+ **CRL.A. 506/2015**

DEEPAK @ DEEPU

..... Appellant

Through: Mr. Amar Nath, Amicus Curiae
counsel with Ms. Rakhi Dubey,
DHCLSC Panel Advocate

Versus

STATE

..... Respondent

Through: Ms. Meenakshi Chauhan,
Additional Public Prosecutor for
respondent-State with SI Shri
Gopal

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

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1. In this appeal, the challenge is to the impugned judgment of 1st December, 2014 vide which appellant has been found guilty for the offence under Section 411 of IPC and vide impugned order of 5th December, 2014, he has been sentenced to rigorous imprisonment of two years with fine of ₹5,000/-for the offence under Section 411 of IPC.

2. At the outset, it is submitted that appellant, who is on bail and is present in this Court, and as per his Nominal Roll, he has undergone

sentence of ten months and his conduct in jail has been satisfactory and that he is a poor person. On behalf of appellant, it is submitted that appellant is earning his livelihood by plying the E-rickshaw and he has a wife and school going children and so the substantive sentence awarded to him deserves to be reduced to the period already undergone by him.

3. Learned Additional Public Prosecutor for respondent-State submits that no minimum sentence is prescribed for the offence in question, but the sentence awarded to appellant is proper.

4. Upon hearing and on perusal of impugned judgment, I find that conviction of appellant is well merited, but the order on sentence needs to be varied in the facts and circumstances of this case. The facts of instant case, persuades this Court to reduce the sentence awarded to appellant to the period already undergone by him as appellant is not a previous convict. Resultantly, the substantive sentence awarded to appellant is reduced to the period already undergone by him while maintaining the sentence of fine imposed upon him.

5. To the aforesaid extent, impugned order on sentence is modified. Trial court to ensure that the fine is paid, if not already done. In case the fine is not deposited, the appellant shall undergo the sentence awarded in default of payment of fine.

6. This appeal is disposed of with aforesaid modification.

(SUNIL GAUR)
JUDGE

JUNE 05, 2017

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