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IN THE HIGH COURT OF DELHI AT NEW DELHI

Order reserved on 2nd November, 2017

Order pronounced on 7th November, 2017

+ **CRL. REV. PET. 784/2016**

DULAL DISWAS

.....Petitioner

Through: Mr. Himanshu Anand Gupta and
Mr. Pradhuman Gautam, Advocates with
petitioner in person.

Versus

STATE

....Respondent

Through: Mr. Amit Ahlawat, APP for the State with
SI Amit Pratap Singh, PS-Lajpat Nagar.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

1. Vide order dated 22.09.2016, the Metropolitan Magistrate convicted the petitioner for the offence punishable under Sections 332/461 of Delhi Municipal Corporation Act and sentenced him to undergo Simple Imprisonment for one month with a fine of Rs.1,000/- and in default of payment of fine further imprisonment for a period of three days. The said order was assailed by the petitioner before the Court of Sessions and vide order dated 09.11.2016, the Additional Sessions Judge-04, Special Judge (PC Act), South-East, Saket Courts, New Delhi upheld the order dated 22.09.2016. Hence, the present Criminal Revision Petition.

2. The case of the prosecution as emerges from the record is that the petitioner, is an owner of the property bearing No. D-5, Kasturba Niketan, Lajpat Nagar-II, New Delhi and he carried out unauthorized construction in the shape of sunshade at ground floor, first floor and entire second floor of the aforesaid property without prior permission of the South Delhi Municipal Corporation, New Delhi; that the aforesaid construction was booked by the concerned authority vide File No. 654/B/UC/EE/(B)/CNZ/15 dated 03.07.2015; that an FIR under Section 332/461 of Delhi Municipal Corporation Act was registered against the petitioner and subsequently chargesheet was filed before the Trial Court; that while framing notice against the petitioner, he pleaded guilty for the offences punishable under Section 332/461 of Delhi Municipal Corporation Act and he was convicted and sentenced as noted in para 1 above. Status report has been filed by the prosecution.
3. Learned counsel for the petitioner contended that the petitioner is a retired Government Servant having an unblemished service record and clean antecedents; that the petitioner being the first time offender voluntarily pleaded his guilt; that since the act of the petitioner was not with an intention to cause any harm to public at large, only fine should have been imposed.
4. Learned APP for the State opposed the present Criminal Revision Petition and contended that the impugned order does not suffer from any infirmity and hence no interference is called for by this Court.

5. I have heard the learned counsel for the parties and perused the record.
6. It is apparent from the record that the petitioner pleaded his guilt when the notice was framed against him on 22.09.2016 and he was subsequently convicted and sentenced to undergo simple imprisonment for a period of one month with a fine of Rs.1,000/-. The petitioner is stated to be 62 years of age and as per his nominal roll, he has already undergone imprisonment of 28 days out of one month sentence awarded to him.
7. Keeping in view the peculiar facts and circumstances of the present case, I am of the consideration view that the present petition deserves to be partly allowed. Accordingly, sentence awarded to the petitioner is modified to undergo simple imprisonment for the period already undergone. The fine imposed upon the petitioner and the default sentence awarded to him shall remain unaltered.

SANGITA DHINGRA SEHGAL, J.

NOVEMBER 7th, 2017
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