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

+ **CRL.A. 972/2017**

PARDEEP SHARMA @ PANDIT

..... Appellant

Through Mr. Anuj Soni, Adv.

versus

STATE OF NCT OF DELHI & ANR

..... Respondents

Through Mr. Panna Lal Sharma, APP for the State
ASI Tej Ram, PS Najafgarh

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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24.11.2017

CRL. Misc. Application no. 17281/2017

Allowed subject to all just exceptions.

CRL.A. No.972/2017

Mr. Anuj Soni, learned counsel appearing on behalf of Mr. Vikas Kumar, Advocate for the appellant submits that he has instructions of the learned counsel for the appellant to make submissions.

Vide this appeal, the present appellant assails the impugned judgment dated 8.9.2017 and the impugned order on sentence dated 27.9.2017 of the learned ASJ-032, Special Judge (Companies Act) Dwarka Courts, Delhi in FIR No.392/2009 under Sections 397/392/411/34 IPC P.S. Najafgarh

whereby the appellant herein Shri Pradeep Sharma @ Pandit was sentenced to undergo rigorous imprisonment for two years along with fine of Rs.2000/- for the offence punishable under Sections 392/34 IPC.

It has been observed in the impugned order of sentence that the said convict Pradeep Sharma @ Pandit (i.e. the appellant herein) remained in custody from 12.11.2009 to 17.10.2011. It is also brought forth in the impugned order of sentence itself as indicated thereby that the appellant Pradeep Sharma @ Pandit has deposited the fine of Rs.2000/-.

Learned counsel for the appellant now confines the prayer made by the present appellant submitting to the extent that the appellant does not assail the impugned judgment dated 8.9.2017 in SC No.55/2014 in FIR No.392/2009 under Sections 397/392/411/34 IPC P.S. Najafgarh whereby the appellant herein was convicted for the commission of the offence punishable under Sections 392/34 IPC but seeks reduction of the period of the sentence to the period of detention already undergone inasmuch as it has been submitted that the appellant has been in custody from 12.11.2009 to 17.10.2011 and that the appellant in terms of the impugned order on sentence dated 27.9.2017 is on bail till date i.e. 27.11.2017.

Learned APP for the State submits that taking into consideration the facts and circumstances of the case and the fact that the appellant was in custody from 12.11.2009 to 17.10.2011, the State does not oppose the prayer made on behalf of the appellant seeking reduction of the period of sentence to the period of detention already undergone.

Vide the impugned order of sentence itself, it has been observed to the effect that though the report of the previous conviction /involvement in respect of all the convicts had been called from the SHO concerned and the

relevant data maintained by the SCRB Delhi had been sent to the effect that all the convicts had been shown involved in at least one more case, on being asked, it has been stated by the convicts at the time of their arrest in the present case that they had been booked in few other cases but they had already been acquitted in all those cases long ago and it has been specifically observed in the impugned order on sentence that the column regarding status of the said cases is lying vacant in the SCRB record, and that thus in the absence of the previous conviction reports of the convicts, the benefit of doubt had to be given to them and thus, it would be considered that they had not been convicted ever in any other case.

Thus taking into consideration the facts and the circumstances of the case and the non opposition on behalf of the State, the prayer made on behalf of the appellant seeking that the impugned order on sentence dated 27.9.2017 in FIR No.392/2009 P.S. Najafgarh (in SC No. 55/2014) registered under Section 392 IPC P.S. Najafgarh be modified to the extent of the sentence of detention of the appellant for the period of detention already undergone by the appellant Pradeep Sharma @ Pandit from 12.11.2009 to 17.10.2011, is thus allowed and the impugned order on sentence dated 27.9.2017 is modified accordingly.

Copy of this order be sent to the learned trial court and to the Superintendent Jail, Delhi.

Dasti.

ANU MALHOTRA, J

NOVEMBER 24, 2017

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