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

+ CRL.REV.P. 775/2018, CRL.M.(BAIL) 1396/2018 &
CRL.M.A.31538 /2018
SHYAMBIR SINGH Petitioner

Through: Mr. Shiv Kumar Sharma and
Mr. Parveen Kumar, Advs.
with Mr. Ajit Kumar (Perocare)
and Mr. Vinod Kumar, Brother-
in-law of appellant in person

versus

THE STATE (GOVT. OF NCT OF DELHI) Respondent
Through: Mr. Kamal Kumar Ghei, APP
with SI Rampal, PS Mehrauli

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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26.11.2018

1. The petitioner has filed the present criminal revision petition under Section 401 read with Section 397 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') for setting aside the judgment dated 12.7.2016 and order on sentence dated 17.12.2016 passed by learned MM-5, South, Saket Courts, New Delhi and judgment dated 9.7.2018 in appeal bearing No.9/2017 passed by Special Judge, (CBI) South, Saket Courts, New Delhi and for acquitting the petitioner/revisionist.
2. Learned counsel for the petitioner submitted that the petitioner is a poor person and his family is having no source of income.
3. Learned counsel for the petitioner also submitted on 26.10.2018 that he is not pressing the impugned judgment on merits and the

present petition be treated as a mercy petition on behalf of the petitioner and he is restricting his arguments only on the question of quantum of sentence. Learned counsel for the petitioner also pointed out that the amount of compensation required to be paid to the legal heirs of the deceased Kishori Lal, in view of the impugned order dated 17.12.2016, may be reduced. Investigating Officer, in this matter, has filed the report verifying about the financial position of the petitioner and his family members. Learned counsel for the petitioner also submitted that a relative of the petitioner is ready to arrange and pay some amount as compensation to the legal heirs of the deceased if the same is reduced from Rs.1,50,000/- to some reasonable amount.

4. Learned APP for the State submitted that the condition of the family of the petitioner is very pathetic and they are not in a position to pay the amount of compensation.

5. I have gone through the status report where it is stated as follows:-

“2. After getting direction from this Hon’ble Court, visit was made that the house of the present petitioner Shaymbir Singh i.e. Village Basantpur (Kelopur) Post Sakra District Mainpuri U.P. and verification with regard to the family members and economical background of the accused/petitioner Mr. Shyambir Singh was made and it found that accused/petitioner’s father Mr. Payarelal expired ago, mother of accused/petitioner Mrs. Sridevi is house wife, wife of accused/petitioner Mrs. Mamta is house wife, brother of accused petitioner namely Mr. Chandan is doing labour work in village. Accused/petitioner is having three children aged 14 years, 12 years & 10 years. Further it found that brother of petitioner Mr. Chandan is married and is living separate from him. The family member i.e. wife and

children of the present petitioner are living in hut/mudhouse. The wife of the present petitioner is doing labour work for her livelihood after having imprisonment of the present petitioner. The children of the present petitioner are studying in the government school of the village.

3. Statements of the neighbours and the Village Pardhan has been recorded in this regard, moreover the photographs of the mudhouse/hut of the present petitioner has been taken and placed herewith the report. As per the statements, present petitioner is the only earning hand for the family. At present her wife is doing labor work to made the livelihood of her and children.”

6. Learned APP for the State submitted that the petitioner has already undergone imprisonment of 4 months and 18 days as on date. The petitioner was sentenced to undergo rigorous imprisonment for 2 years and was directed to pay compensation of Rs.1,50,000/- to be distributed equally amongst the legal heirs of the deceased Shri Kishori Lal for commission of offence under Section 304-A of Indian Penal Code, 1860 ('IPC'). In default of payment of compensation, he was ordered to undergo SI of one month. The petitioner was also sentenced to undergo RI for six months for commission of offence under Section 338 of IPC and RI for one month for commission of offence under Section 279 of IPC.

7. As per the order on sentence dated 17.12.2016, the injured Khem Chand had received some compensation earlier, therefore, no order of compensation was passed qua him. All the sentences were ordered to run concurrently.

8. Learned counsel for the petitioner submitted that the petitioner

has already been in custody since 9.7.2018 and has undergone 4 months and 18 days of imprisonment.

9. Investigating Officer, present in the Court, also stated that the petitioner is having no previous criminal history.

10. In view of the aforesaid facts and taking into consideration the impugned judgment dated 12.7.2016 as well as the order on sentence dated 17.12.2016 as well as order of the Appellate Court dated 9.7.2018 and the submissions of the learned counsel for the petitioner and the learned APP for the State and also the status report dated 12.11.2018 filed by the Investigating Officer on record and the fact that learned counsel for the petitioner is not pressing the present petition on merits and the submission of the learned counsel for the petitioner that the present petition may be treated as a mercy petition on behalf of the petitioner and that the learned counsel for the petitioner has restricted his arguments only on the question of quantum of sentence and the amount of compensation and also taking into consideration the nominal roll wherein, the conduct of the appellant is reported to be satisfactory and also taking into account the financial status of the family of the petitioner which is stated to be very pathetic and having regard to the culpability of the petitioner, I am of the view that the ends of justice would be met if the sentence of the appellant is modified to imprisonment for six months. The petition is allowed in part. The conviction order on sentence recorded by the Trial Court is modified to the extent as indicated hereinabove. The compensation imposed and the default sentence awarded, in the

interest of justice, is reduced to Rs.75,000/- and the petitioner is directed to deposit the sum of Rs.75,000/- in the Trial Court within 7 days which shall be paid to the legal heirs of the deceased Shri Kishori Lal. The amount of compensation shall be equally distributed, as ordered, amongst all the surviving legal heirs by the Trial Court. In default of deposit of amount of compensation in the Trial Court within 7 days, the petitioner shall undergo SI for two months.

11. The Trial Court record be sent back along with the copy of this judgment. A copy of this judgment be also sent to the Central Jail, Tihar, New Delhi for updating the jail record. Accordingly, the present revision petition is disposed of in the above terms. CRL.M.(BAIL) 1396/2018 & CRL.M.A.31538 /2018 are also disposed of.

CHANDER SHEKHAR, J

NOVEMBER 26, 2018/rk