

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

Date of Order: February 28, 2019

+ **CRL. A. 44/2013**

MANGAL SINGH ARYAAppellant

Through: Mr. Aditya V. Singh, Advocate

Versus

STATE & ANR.Respondents

Through: Mr. Philomon Kani, Advocate for
Ms. Rajdipa Behura, Special
Public Prosecutor

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

(ORAL)

1. Impugned judgment of 20th December, 2012 holds appellant guilty of receiving bribe of ₹25,000/- while he was working as Assistant General Manager (Administration) East Zone, Delhi in MTNL, for release of security deposit of ₹7 lacs odd in favour of complainant-Company.

2. Vide order of 22nd December, 2012, trial court has sentenced appellant to rigorous imprisonment for three years and fine of ₹25,000/- with default clause, for the offence under Section 7 of *the Prevention of Corruption Act, 1988* and under Section 13(1)(d) r/w Section 13(2) of *the Prevention of Corruption Act, 1988*, he has been sentenced to rigorous imprisonment for three years and fine of ₹25,000/- with default clause. Both the sentences have been ordered to run concurrently. The facts are noticed in the opening paragraph of the impugned judgment, and so, need no reproduction.

3. At the outset, appellant's counsel does not press this appeal on merits and rightly so, as conviction of appellant is justified in light of unimpeachable evidence on record.

4. On the quantum of sentence, it is submitted on behalf of appellant that appellant is aged 64 years and he has to look after his ailing wife, who is aged 63 years and she is suffering from spinal disorder and needs constant care and attention. To submit so, copy of medical certificate has been handed over in the Court. It is also submitted that lenient view on quantum of sentence deserves to be taken as appellant has to look after his middle aged widowed sister, who is living with him.

5. Learned counsel for appellant submits that appellant has already faced the agony of prolonged trial and appeal proceedings for more than one decade and the minimum sentence for the offence in question at the time of his conviction was one year for the offence under Section 13(1)(d) r/w Section 13(2) of *the Prevention of Corruption Act, 1988* and the minimum sentence for the offence under Section 7 of the aforesaid Act was six months. Lastly, it is submitted that the complainant has not supported the prosecution case and so, the substantive sentence awarded to appellant deserves to be reduced to the period already undergone by him and that by now, appellant has already undergone sentence of more than one year.

6. On behalf of respondents it is submitted that the sentence awarded to appellant is just and proper and this appeal deserves dismissal.

7. Upon hearing and on perusal of the evidence on record, this Court finds that the conviction of appellant for the aforesaid offences is well

deserved. However, on the quantum of sentence, I find that sentence of more than one year already undergone by appellant will meet the ends of justice, as the minimum sentence of one year was provided by law, when the offence in question was committed by appellant. So, the substantive sentence awarded to appellant is reduced to the period already undergone by him, but the sentence of fine imposed is enhanced from ₹25,000/- to ₹50,000/- for the offence under Section 7 of the Prevention of Corruption Act, 1988 and under Section 13(1)(d) r/w Section 13(2) of the Prevention of Corruption Act, 1988, the fine imposed is also enhanced from ₹25,000/- to ₹50,000/-.

8. Impugned order on sentence stands modified to the aforesaid extent. Learned counsel for appellant submits that fine imposed by the trial court has been already deposited and the enhanced fine will be deposited within six weeks from today. Upon doing so, this order shall come into effect and if it is not so done, that is to say, if the enhanced fine is not deposited within the aforesaid time-line, then the impugned order on sentence shall become operative. Records be remitted back forthwith to facilitate compliance of this order.

9. With aforesaid directions, this appeal is accordingly disposed of.

(SUNIL GAUR)
JUDGE

FEBRUARY 28, 2019

v