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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 8th February, 2019

+ CRL.A. 321/2002

BHOLA NATH

..... Appellant

Through: Mr. R.S. Mishra, Advocate with
Mr. Anand Mishra, Advocate
along with appellant in person.

versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Mr. Amit Ahlawat, APP for the
State

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The appellant Bhola Nath stood trial in sessions case No.77/2001 arising out of first information report (FIR) No.575/1994 of Police Station Sameypur Badli, involving offences punishable under Sections 399/402 of the Indian Penal Code, 1860 (IPC) read with Section 25 of the Arms Act. He was the fifth accused (A5) in the said case, five other persons having been prosecuted along with him, they being Mahender Singh (A1), Shiv Kumar @ Shiva (A2), Jai Singh (A3), Maste (A4) and Kharwan @ Motu (A6).

2. The trial concluded in judgment dated 05.04.2002 of the Additional Sessions Judge (ASJ) holding the appellant and other co-accused persons guilty and convicting them for offences under Sections 399/402 IPC as charged. It may be mentioned here that the

co-accused Mahender Singh (A1) and Jai Singh (A3) were also held guilty separately for offences under Section 25 of the Arms Act.

3. By order dated 08.04.2002, rigorous imprisonment for five years with fine of Rs.5,000/- was imposed for offence punishable under Section 399 IPC along with rigorous imprisonment for three years with fine of Rs.5,000/- for offence punishable under Section 402 IPC. The trial Judge directed benefit of set off for the period already undergone under Section 428 of the Code of Criminal Procedure, 1973 (Cr.P.C.) also adding that all the sentences would run concurrently.

4. Present appeal was filed challenging the above mentioned judgment and order of conviction. As per the report of the registry co-convicts had filed separate appeals.

5. The appellant at the hearing submits through counsel that he does not press the appeal to challenge the judgment of conviction on merits, his prayer being only for lenient view in the matter of sentence.

6. Having heard both sides and having gone through the record, this court finds no error or infirmity in the judgment holding the appellant guilty and convicting him on the charges under Section 399/402 IPC. Thus, the conviction for the said offence is hereby confirmed.

7. The offences were committed in the year 1994. Twenty-four years have passed by. As per the nominal roll dated 14.09.2018, the appellant had undergone incarceration for over three years and three months during the period of investigation, trial and during the pendency of this appeal, prior to the sentence being suspended and he

being released on bail pending hearing on the appeal. There is no report of any criminal antecedents prior to the involvement in the present case nor is there any report of his involvement in any criminal activity after the registration of this case.

8. In these circumstances, the prayer for reduction of sentence is accepted. In the view of this court, the period of incarceration already undergone would meet the ends of justice. Thus, the same is treated as the punishment meted out to the appellant. The order on sentence is accordingly modified. Consequently, in view of above directions modifying the sentence, the appellant need not surrender to jail.

9. His bail bond and surety bond are discharged.

10. The appeal stands disposed of in above terms.

R.K.GAUBA, J.

FEBRUARY 08, 2019

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