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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 23rd July, 2019

+ CRL.A. 910/2002

RAMA YADAV

..... Appellant

Through: Mr. Rajan Chaudhary, Advocate with
Mr. Gaurav Verma, Advocate along
with appellant in person.

versus

STATE

..... Respondent

Through: Ms. Kusum Dhalla, APP for the State
with SI Ranvir Singh, PS Rajender
Nagar.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The appellant was apprehended and arrested during the day on 28.09.2000 in the area of Shankar road within the jurisdiction of Police Station Rajender Nagar and pursuant to the report (charge sheet) under section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.), submitted upon conclusion of investigation into first information report (FIR) No.318/2000 of Police Station Rajender Nagar, was brought to trial in sessions case No.158/2001 in the court of additional sessions judge. The trial held against him was on the charge for the offences under sections 392, 397 and 411 read with section 34 of Indian Penal Code, 1860 (IPC), the gravamen whereof was that in furtherance of the common intention with his associates , that included one Ajit Singh (proclaimed offender), he had committed robbery against the first informant Ram Chander Paswan (PW-1) at

about 11:30 a.m. on 28.09.2000, the said Ram Chander Paswan (PW-1) having been relieved at the pointing out of a knife and under fear of death, of Rs.8,000/-, such weapon (knife) having been used by the said associate Ajit Singh (PO). The trial culminated in judgment dated 24.10.2002 whereby the appellant was held guilty and convicted for offence under section 392 IPC. By order on sentence passed on 26.10.2002, punishment in the form of rigorous imprisonment for three years with fine of Rs.1,000/- was imposed against the appellant.

2. Aggrieved by the above mentioned judgment and order on sentence, the present appeal was filed in November, 2002. The sentence was suspended and the appellant released on bail pending hearing on the appeal, by order dated 14.02.2003. The turn of the appeal for consideration has come up sixteen long years thereafter.

3. At the hearing, the appellant present in person through his counsel submitted that he does not challenge the above mentioned judgment to the extent thereby he has been found guilty and convicted for the offence of robbery under section 392 IPC, he pressing the appeal only to seek mercy in the matter of sentence submitting that he has had clean antecedents, there being no other conviction recorded against him nor has he indulged in any crime after he came to be involved in the present case.

4. Though the appeal is not being challenged on merits, this court being the final court on facts, the evidence on record has been perused to satisfy the judicial conscience of the court that the conviction has been properly recorded by the court below.

5. It is noted that the FIR was registered on the statement (Ex.PW-1/A) of the victim on which the investigating officer SI Rakesh Kumar(PW-6) had made endorsement vide Ex.PW-6/A. The facts brought out in the FIR were proved by evidence led at the trial, including through the mouthpiece of the victim (PW-1), and do show that PW-1 along with some of his friends, all hailing from Bihar, had come to New Delhi railway station for boarding a train. It appears that the said persons were accosted by the appellant, and his above mentioned associate Ajit Singh (proclaimed offender), and on some pretext of help and arranging travel by train taken elsewhere. It is at the place of Rao Tailors in Shanker Road area that the victim was relieved, at the point of button-actuated knife held by Ajit Singh (proclaimed offender) of Rs.8,000/- which he was carrying on his person. When this incident was happening, the friend of PW-1 had fled away and when alarm was raised, the appellant and his associate Ajit Singh also started fleeing away, both being apprehended and caught on the spot. It appears that Ajit Singh was later released on bail but thereafter absconded, he not having faced the trial with the appellant.

6. The learned counsel for the appellant fairly concedes, and this court endorses, that a perusal of the evidence shows that no such contradictions have been brought out in the evidence of the crucial witnesses for prosecution as could give rise to any doubts about complicity of the appellant in the crime for which he has been convicted. PW-1 stood by his version in the FIR and in this he was supported by the word of the investigating officer, there being no

reason why the word of PW-1 about robbery in which the appellant was involved should be disbelieved.

7. In the above facts and circumstances, the finding returned by the trial court holding the appellant guilty on the charge for offence under section 392 IPC is hereby affirmed. This court must add that since the weapon (knife) was used not by the appellant but by his associate Ajit Singh (proclaimed offender), the charge under section 397 IPC could not stick to the appellant. In this view, the trial Judge has rightly not convicted the appellant for such aggravated offence.

8. In absence of any record showing criminal antecedents and in absence of any submission that the appellant has been involved in any crime after the one at hand which occurred nineteen years ago, a case for suitable reduction in the sentence is made out. The sentence is, thus, reduced to rigorous imprisonment for one year with fine of Rs.1,000/-, in default, the rigorous imprisonment for two months. Ordered accordingly.

9. The sentence has been modified, But it is clear that the appellant has already undergone the said sentence. The nominal roll would show that the appellant had undergone rigorous imprisonment for one year and two months on the day he was released on bail. Therefore, he need not surrender back to custody.

10. The appeal is disposed of with these observations.

R.K.GAUBA, J.

JULY 23, 2019/vk