

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

Date of decision: November 06, 2019

+ **CRL.A. 118/2019 & CRL.M.(BAIL) 209/2019**

HARISH @ KALU

..... Appellant

Through: Mr. Aditya Aggarwal & Mr. Ankit
Mvtreja, Advocates

Versus

STATE

..... Respondent

Through Mr. G.M. Farooqui, Additional
Public Prosecutor for State SI
Sachin

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

JUDGMENT

BRIJESH SETHI, J (oral)

This appeal is against impugned judgment of 1st December, 2019 passed by the trial court vide which appellant has been held guilty of the offence under Section 395 IPC and vide order on sentence of 11th December, 2018 he has been directed to undergo rigorous imprisonment for four years with fine of Rs.1,000/- with default clause. In addition, appellant has been also held guilty for the offence under Section 457 IPC and sentenced to undergo rigorous imprisonment of three years with fine of Rs.1,000/- and default clause.

The facts giving rise to the impugned conviction and sentence awarded to appellant stand already noted in the impugned Judgment and need no reiteration.

At the outset, learned counsel for the appellant submits that this appeal is not pressed on merits and he only wants to make submissions on the point of sentence only. Learned counsel for appellant submits that appellant has already undergone sentence of three years two months and seventeen days as on 29th October, 2019 out of the sentence awarded to him. It is submitted that appellant is a young man of 32 years and has a family to support. It is further submitted that appellant is the only bread earner of his family and his father, who is a senior citizen, is confined to bed as he has suffered a fracture and his mother is also a senior citizen and dependent upon him. Learned counsel for appellant submits that appellant has two minor children, a son aged 10 years and a daughter who is of 5 years of age, to look after. He has, therefore, prayed for a lenient view.

On the other hand, learned Additional Public Prosecutor for State submits that the sentence awarded to appellant is just and proper in the facts of this case and submits that as per nominal roll of 29th October, 2019, appellant has already undergone sentence of three years two months and seventeen days.

I have considered the rival submissions. Learned counsel for appellant has not made any submissions on merits of this case. Keeping in view the fact that appellant is the first offender and is not a previous convict and he is the sole bread earner of his family consisting of his wife and children and old parents, the sentence awarded to appellant is modified to the effect that appellant is sentenced to the period already undergone.

An intimation to this effect be also sent to the Jail Superintendent in this regard. The appellant be released, if not required in any other case.

The appeal stands disposed of.

(BRIJESH SETHI)
JUDGE

NOVEMBER 06, 2019

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