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

Date of Decision: 23.10.2019

+ **CRL.A. 223/2010 & CrI.M.A. 37567/2019 &
CrI.M.A. 36456/2019**

RAJENDER BHARTI & ANR. Appellant

Through: Mr. Ram Kumar, Advocate

Versus

STATE Respondent

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

**CORAM:
HON'BLE MR. JUSTICE BRIJESH SETHI**

J U D G M E N T

BRIJESH SETHI, J (ORAL

CRL.A. 223/2010

The present appeal has been filed by the appellants 1). Rajender Bharti and 2). Kunwar Pal Sharma @ Tunda against the Judgment dated 03.02.2010 and order on sentence dated 05.02.2010 passed by Ld. ASJ, vide which the appellants were sentenced to three years of RI with fine of Rs.10,000/- each for the offence under section 259 IPC and in default of payment of fine, they shall further undergo simple imprisonment for three months.

Learned counsel for the appellant states that he does not want to argue on the merits of the case and will confine his arguments on the order on sentence only. He prays for release of the appellants on the ground that both appellants are the first offenders and are not previous convicts. He further prays that both appellants are sole bread earners of their family consisting of their wives and children.

Learned APP for the State opposes the above submission and states that the offence committed by the appellants is serious in nature and, therefore, they do not deserve any leniency. The Ld. APP further states that as per Nominal Roll, the appellant no.1 Rajender Bharti has been in jail for two years, one month and Nineteen days and appellant no.2 Kunwar Pal Sharma @ Tunda has been in jail for One year, Nine months and Eighteen days, whereas they both have been sentenced to three years of RI with fine of Rs.10,000/- each for the offence under section 259 IPC and in default of payment of fine, further undergo simple imprisonment for three months. Fine has been paid by both the appellants i.e. Rajender Bharti and Kunwar Pal Sharma vide receipt no. 946034 and 946035 dated 5th February 2010, respectively.

I have considered the rival submissions.

Keeping in view the fact that appellants are the first offender & are not previous convicts and they are sole bread earners of their family consisting of their wives and children, the order on sentence dated 05.02.2010 is modified to the effect that both appellants are sentenced to the period already undergone.

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

Ordered accordingly.

The appeal stands disposed of.

Copy of this Judgment be sent to the concerned Jail Superintendent for intimation and compliance.

BRIJESH SETHI, J

OCTOBER 23, 2019

Amit