

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

Date of decision: 03.02.2020

+ **CRL.A. 222/2010**

PAWAN KUMAR Appellant

Through: Mr. M.L.Yadav, 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)

1. This is an appeal under Section 374 Cr.P.C. filed by the appellant Pawan Kumar against Judgment dated 12.01.2010 vide which the appellant was convicted under Section 393 read with Section 398 IPC and under Section 27 Arms Act and also against the Order on sentence dated 21.01.2010 vide which the appellant was sentenced to undergo 5 years RI with fine of Rs. 5,000/- for the offence under Section 393 read with Section 398 IPC and in default of payment of fine, he shall further undergo SI for six months. Appellant was also sentenced to undergo 3 years RI with fine of Rs. 1,000/- for the offence under Section 27 Arms

Act and in default of fine, SI for one month.

2. Nominal Rolls in respect of appellant has been filed in compliance of previous order. Sentence of the applicant was suspended vide order dated 12.04.2010.

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

4. At the outset, 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 appellant on the ground that appellant is the first offender and is not previous convict. It is further submitted that appellant is sole bread earner of his family and his old aged parents are dependent upon him. It is further submitted that appellant is of young age of 37 years and there are chances of his mending his ways. It is further submitted that alleged incident is of the year 2007 and the appeal is pending before this court since 2010. He has, therefore, prayed for a lenient view.

5. Learned APP for the State opposes the above submissions and states that the offence committed by the appellant is serious in nature and, therefore, he does not deserve any leniency. Ld. APP for the State submits that the FIR was registered under Section 392/394/397/398/411/34 IPC & under Section 25/27/54/59 Arms Act but appellant was sentenced under Section 393 read with Section 398 IPC and for an offence punishable under Section 27 of Arms Act only. Ld.

APP further states that as per Nominal Roll, the appellant has already served the sentence for two years, seven months and seventeen days as on 16.04.2010. Fine has been paid by the appellant.

6. 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 sole bread earner of his family consisting of old aged parents and also considering the fact that the purpose of sentencing is reformatory and appellant has already undergone sentence for the period as mentioned above, it would be in the interest of justice if his sentence is reduced to the period already undergone. Accordingly, the order on sentence dated 21.01.2010 is modified to the effect that appellant is sentenced to the period already undergone by him in jail.

7. Copy of this Judgment be sent to the concerned Jail Superintendent for information.

8. The appeal stands disposed of accordingly.

BRIJESH SETHI, J

FEBRUARY 3, 2020

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