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

+ CRL.M.A.6381/2020, CRL.M.A.6382/2020 in CRL. A.1043/2019

BINU KUMAR & ORS.Appellants

Represented by: Mr.Siddharth Yadav, Adv.

versus

STATE (NCT OF DELHI)Respondent

Represented by: Mr. M.S. Obroi, APP for the
State

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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14.05.2020

The hearing has been conducted through Video Conferencing.

CRL.M.A.6382/2020 (for exemption)

1. By this application, the appellant seeks exemption from filing the certified copies as also the affidavits.
2. Exemption is allowed, subject to the condition that petitioner will file the certified copies/ affidavits within 72 hours from the date of resumption of the regular functioning of this Court.
3. Application is disposed of.

CRL.M.A.6381/2020

1. By this application the three appellants seek early hearing of Crl.M.B. Nos. 1611/2019, 1612/2019 and 1613/2019 whereby the appellants have sought regular suspension of sentence pending hearing of the appeal.
2. Application is disposed of granting early hearing in CRL.M.B. Nos. 1611/2019, 1612/2019 and 1613/2019 which are taken up for hearing.

CRL.M.B. Nos. 1611/2019, 1612/2019 and 1613/2019

1. Learned counsel for the appellant contends that the appellants have been falsely implicated. There is no recovery of any article at the instance of the appellants much less the stolen car. The appellants were wrongly arrested and on the purported disclosure, number of cases were foisted on them. The complainant has identified the appellants in the Police Station which identification is meaningless.

2. Appellants have been convicted for offences punishable under Sections 365/34 and 394/34 IPC and awarded sentence of imprisonment for a period of 2 years and 5 years respectively. Appellant No.1 has also been convicted for offence punishable under Section 397 IPC and awarded sentence of imprisonment for a period of 7 years on the said count.

3. A perusal of the nominal rolls of the three appellants reveals that appellant Binu Kumar has to undergo more than 5 years whereas appellant Mohd. Amir and Mohd. Altaf have to under more than 3 years sentence as they have been awarded 5 years imprisonment.

4. The appellants have been convicted pursuant to the FIR registered by one . Deep Chand Sharma who was working as a driver with Ishmeet Singh for nearly 2 years. He stated that on 8th March, 2014 he along with his employer and his wife was coming from Ludhiana to Delhi. At about 10.00 PM they reached at the Ambience Mall, Vasant Kunj. After dropping the employer and his wife when he was going to park the vehicle, a white colour Swift Dzire car came from the behind and hit his vehicle. He stopped his vehicle and opened the door when one strongly-built person came and pushed him from the driver's seat to the back side and sat on the driver seat. Meanwhile, 2-3 boys entered the vehicle and threw him inside the vehicle. They started hitting him and kept on driving the vehicle. He

was taken to a deserted place with his mouth gagged. After he was pushed out of the vehicle, he removed the cloth and shouted, when some stranger met and untied him. It was revealed that he was in the area of Shushant Lok, Gurgaon and thus intimation was given to the said Police Station.

5. The owner of the vehicle Ishmeet Singh produced the list of robbed articles including the cash, jewellery, bag, original documents of the car, etc., besides the car in which they were travelling. Later, an information was received about the arrest of the three appellants in FIR No. 103/2013 under Sections 392/394/472 and 25 Arms Act at DLF, Phase-II, Gurgaon, whereafter their production warrants were taken and on 26th April, 2016, they were formally arrested and produced in Court and application was filed for Test Identification Parade which the appellant refused to undergo.

6. Subsequently, during the P.C. remand the complainant identified the three appellants and stated that Binu Kumar was the one who pushed him inside the car, showed him the revolver and broke the car.

7. Deep Chand Sharma appeared in the witness box and fortified the allegations made by him in the FIR which were duly supported by the two other witnesses who had already alighted from the car i.e. their employer and his wife.

8. Consequently, at this stage, this Court finds no ground to grant suspension of sentence of the appellants.

9. Learned counsel for the appellants pray that the appellants have wife and minor children to look after and in the alternative they be granted interim suspension of sentence. These facts have not been mentioned in the application and have not been verified.

10. Learned counsel for the appellants state that if so instructed, he will move necessary applications for seeking interim suspension of sentence on the said count.

11. Applications are dismissed.

MUKTA GUPTA, J.

MAY 14, 2020

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