

\$~10

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

***Decided on: 02.02.2021***

+ CRL.REV.P. 385/2020

SH SURESH KUMAR

..... Petitioner

Through Mr.Rai Sinha, Adv.

versus

STATE(NCT OF DELHI) & ANR.

..... Respondents

Through Mr. Panna Lal Sharma, APP for State  
Mr.Satwant, Adv. for R-2 with R-2 in  
person.

**CORAM:**

**HON'BLE MR. JUSTICE SURESH KUMAR KAIT**

**J U D G M E N T**

1. Present petition has been filed under section 397/401 read with section 482 Cr.P.C. praying as under:

- i. *Set aside and quash the impugned judgment dated 20.11.2020 and Order on sentence dated 20.11.2020 passed by Sh. Ajay Gupta, ASJ-02/East, Karkardooma court, Delhi in Criminal Appeal no. 36 of 2020 titled as "Sh Suresh Kumar Vs. Sh. Kamlesh Kumar", and/or*
- ii. *Set aside and quash the impugned judgment dated 14.01.2020*

*and Order on sentence dated 30.01.2020 passed by Sh. Sujit Saurabh, Ld. MM/East, Karkardooma court, Delhi in case titled as Sh Kamlesh Kumar Vs. Sh Suresh Kumar in CC No. 355612017, and/or*

*iii. Pass an order to summon the trial court record for examining the legality, validity, propriety and correctness of the impugned judgement and order on sentence.*

2. Present petition is filed based upon the settlement arrived at between petitioner and respondent no.2/complainant vide impugned judgment and order on sentence dated 20.11.2020 passed by learned ASJ-02/East, Karkardooma Court, Delhi in Crl.A. 36/2020, whereby the substantive sentence awarded by the Trial Court was modified to the extent that the petitioner shall undergo SI for 3 months instead of 4 months with fine of Rs.1,30,000/- and in default of payment of fine, SI for 1 month.

3. Respondent no.2/complainant is personally present in court with his counsel. He has produced Aadhar Card vide No.385354861019 for his verification. He states that matter has been settled and he has no objection if petitioner's conviction and sentence is set aside by this Court.

4. Learned APP for State submits that if this Court is inclined to set

aside petitioner's conviction and sentence, petitioner is liable to pay 15% of the principal amount in view of the judgment passed by the Hon'ble Supreme Court of India titled as ***Damodar S. Prabhu vs. Sayed Babalal H. (2010)5 SCC 663 decided on 3.5.2010, in favour of legal aid.***

5. I find substance in the submission of learned APP for State, however, keeping in view financial condition of the petitioner as presently he is unemployed and has 6 children, I hereby waive off the cost amount to be deposited.

6. In view of above, since the matter has been settled, I hereby set aside impugned judgment and order on sentence dated 20.11.2020 passed by learned Trial Court.

7. The petition is accordingly allowed and disposed of.

8. Order be uploaded on the website of this Court forthwith.

**(SURESH KUMAR KAIT)**  
**JUDGE**

**FEBRUARY 02, 2021**  
**ab**