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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Judgment delivered on: 05.04.2022**+ **CRL.A. 759/2019**  
**AMIT @ SANJAY**

..... Appellant

Through : Mr. S.S. Ahluwalia and Mr. Mohit  
Bagmal, Advocates.

versus

STATE

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State  
along with SI Ishwar Singh, P.S.  
Dwarka (South) in FIR No. 473/2015.**CORAM:**  
**HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA**

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**J U D G M E N T****ANOOP KUMAR MENDIRATTA, J (ORAL)**

1. The present appeal has been filed under Section 374(2) of the Code of Criminal Procedure, 1973 ('Cr.P.C.' in short) against the judgment and order on sentence dated 19.09.2018 passed by Mr. Ajay Goel, Additional Sessions Judge/Special Judge (NDPS), Dwarka Courts, New Delhi in Sessions Case No. 440396/2016 in FIR No. 473/2015 registered under Sections 392/397/34 of the Indian Penal Code, 1872 ('IPC' in short) at P.S. : Dwarka (South), Delhi whereby, the appellant was convicted under Sections 392/34 IPC and sentenced to undergo, the sentence already undergone along with fine of Rs.20,000/- (Rupees Twenty Thousand only) and in default of payment of fine of Rs. 20,000/- (Rupees Twenty Thousand only), the petitioner was



directed to further undergo simple imprisonment for one month.

2. The present appeal has been filed on behalf of the appellant on the point of sentence so as to waive-off the amount of fine of Rs.20,000/- (Rupees Twenty Thousand only) imposed *vide* order on sentence dated 19.09.2018. It is prayed that appellant be released on imprisonment already undergone. Learned counsel for the appellant further submits that the delay in filing the present appeal has already been condoned *vide* order dated 06.08.2019 in CRL. M.A. No. 12884/2019.

3. Learned counsel for the appellant contends that the appellant is from poor strata of society and is unable to pay the fine amount of Rs.20,000/- (Rupees Twenty Thousand only). The family of the appellant is stated to consist of aged parents, who are surviving on old-age pension and it is submitted that the appellant has no source of income. It is also submitted that the appellant has already undergone sentence of about of 03 years, one month and 14 days on the date when he was sentenced for the period already undergone *vide* order on sentence dated 19.09.2018.

4. Learned APP for the State submits that the learned trial court has already taken a lenient view and the appeal is not maintainable in view of provisions of Section 375 of Cr.P.C.

5. I have given considered thought to the contentions raised. Section 375 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') provides as under :

***“375. No Appeal in certain cases when accused pleads guilty.***



*Notwithstanding anything contained in section 374, where an accused person has pleaded guilty and has been convicted on such plea, there shall be no appeal.-*

*(a) if the conviction is by a High Court; or*

*(b) if the conviction is by a Court of Session, Metropolitan Magistrate or Magistrate of the first or second class, except as to the extent or legality of the sentence.”*

6. On a plain reading of the Section 375 of Cr.P.C., it can be deciphered that an exception is carved out under Section 375 (b) of Cr.P.C. regarding the maintainability of appeal on the legality of the sentence imposed by trial court.

7. In ***Palaniappa Gounder vs. State of Tamil Nadu*** reported as (1977) 2 SCC 634, the Hon'ble Supreme Court observed that a court must take into account, the nature of crime, injury suffered, justness of the claim, the capacity to pay and other relevant circumstances in fixing the amount of fine/compensation.

8. In ***Karamjit Singh vs. State*** reported as (2001) 9 SCC 161, it has been observed by the Hon'ble Supreme Court that punishment in criminal cases is both punitive and reformatory. The purpose is that the person found guilty of committing the offence is made to realize his fault and is deterred from repeating such acts in future. The reformatory aspect is meant to enable the person concerned to relent and repent for his action and make himself



acceptable to the society as a useful social being.

9. Considering the fact that the appellant is from poor strata of the society and is unable to pay the fine of Rs.20,000/- (Rupees Twenty Thousand only), I am of the considered opinion that the sentence of payment of fine needs to be reconsidered. In the facts and circumstances of the case, the sentence imposed by the learned trial court is modified and the appellant is directed to be released, on the period already undergone as directed by the learned trial court and on payment of fine of Rs.500/- (Rupees Five Hundred only); in default of payment of fine to undergo simple imprisonment for one day.

10. The appeal is accordingly disposed of.

11. A copy of this order be forwarded to learned trial court and the Jail Superintendent for information and compliance.

**ANOOP KUMAR MENDIRATTA**  
**(JUDGE)**

**APRIL 05, 2022**

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