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

Date of Decision: 03.02.2023

+ CRL.A. 450/2009

HAR PRASAD @ HARISH

..... Appellant

Through: Mr. Archit Upadhyay,
Advocate (Amicus Curae)
(DHCLSC) and Ms. Charu
Sharma, Advocate alongwith
Appellant

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Naresh Kumar Chahar,
APP for the State

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. (ORAL)

1. The present appeal under Section 374 of the Code of Criminal Procedure, 1973 ("Cr.P.C.") has been filed by appellant against the judgment dated 04.05.2009 and order on sentence dated 06.05.2009 passed by learned Additional Sessions Judge, Karkardooma Courts, Delhi in case FIR bearing no. 294/2005, registered at Police Station Krishna Nagar, New Delhi for offences punishable under Sections 392/452/411/397/34 of the Indian Penal Code, 1860.

2. Mr. Archit Upadhyay, Advocate (DHCLSC) is present in Court today, and is accordingly appointed as amicus curie for the appellant.

3. The present appeal was admitted *vide* order dated 05.06.2009 and the sentence of appellant was suspended *vide* order dated 09.07.2009 by this Court.

4. Briefly stated, the case of prosecution, before the learned Trial Court, was that on 22.07.2005 at about 1.30 PM, complainant was alone at her house. Upon her opening the door, two young boys entered the house forcefully and one of them took out a knife from the pocket of his pant and had threatened to not raise her voice. Accused persons made her sit on a chair and tied her hands with *Chunni*, and took away two gold bangles, one gold chain, three rings and ear rings which she was wearing. In the meanwhile, when someone pressed the bell of her house the accused persons fled from the spot. Thereafter, based on the complaint, an FIR bearing no. 294/2005 was registered against the appellant and other co-accused for the offences punishable under Sections 392/452/411/397/34 of IPC.

5. The learned Trial Court, *vide* judgment dated 04.05.2009 convicted the appellant only under Section 411 of IPC and sentenced him to undergo rigorous imprisonment for one year and fine of Rs.5,000/-, and in default of payment of fine, to undergo rigorous imprisonment for three months.

6. At the outset, learned counsel for appellant, upon instructions, submits that the appellant does not propose to assail the impugned judgment on merits and would like to confine the submissions in this appeal, to the point of sentence alone. It is stated that since the incident in the present case is 18 years old, the sentence of the appellant be reduced to the period already undergone by him.

7. Learned APP for state has argued to the contrary.
8. This Court has heard the parties and perused the material on record.
9. In the present case, the incident had taken place on 22.07.2005 and appellant was convicted by the learned Trial Court on 04.05.2009, whereby he was sentenced to rigorous imprisonment for a period of one year along with fine of Rs.5000/-. It is stated by learned counsel for appellant that the fine imposed upon the appellant had already been deposited by him. There is no previous involvement of the appellant and his conduct was reported to be satisfactory. It is also not the case that the appellant had misused the liberty of bail granted to him either during the period of trial or during the pendency of the present appeal.
10. It is stated that appellant is 57 years of age and has faced criminal trial for almost 18 years. In the last 15 years, there is no involvement of the appellant in any criminal case, he has proved to be leading a meaningful life and has settled his children and is working as labourer.
11. Considering the overall facts and circumstances of the case, this Court is of the opinion that no useful purpose will be served by requiring the appellant to undergo the remaining portion of sentence at this belated stage, when the appellant has been faced trial for almost 18 years, and is today, earning for himself looking after his family.
12. Thus, in view of the aforementioned circumstances, this Court, though not interfering with the conviction of the appellant, reduces the

sentence of imprisonment to the period already undergone by the appellant.

13. Accordingly, the present appeal stands disposed of in above terms.

14. Bail bond stands cancelled and the surety stands discharged.

15. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 3, 2023/ns

