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

+ **CRL.A. 1537/2013 & CRL.M.A. 10720/2024**

MAHESH

..... Appellant

Through: Mr. Jitender Solanki & Mr. Vikrant
Sarwan, Advs.

versus

STATE

..... Respondent

Through: Mr. Hemant Mehla, APP for the State
with Ms. Mridul Sharma, Adv.
SI Seema, P.S. Dwarka South.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

21.05.2024

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1. The present appeal under Sections 374/401 of the Cr.P.C. challenges the judgment of conviction dated 25.10.2013 and order on sentence dated 31.10.2013 respectively, passed by learned ASJ in SC No. 48/12, arising out of FIR No. 313/2011 under Sections 365/392/411/34 of the IPC, registered at P.S. Dwarka South.

2. *Vide* the impugned judgment of conviction and order on sentence, the appellant had been convicted for an offence punishable under Section 411 read with Section 34 of the IPC and sentenced to undergo rigorous imprisonment for one year alongwith a fine of Rs. 500/- and in default of payment of fine, simple imprisonment for one month.

3. Learned counsel for the applicant/appellant submits that he limits the challenge in the present appeal to the order on sentence. It is submitted that



order on sentence may be modified to the extent that the appellant may be released on probation of good conduct for the remaining part of the sentence.

4. *Vide* order dated 08.04.2024 report was called from the Probation Officer, in pursuance of which a report received from Sumit Dahiya, Probation Officer, Dwarka Courts, New Delhi has been placed on record. A perusal of the said report reflects that the applicant/appellant had been acquitted for all the previous offences for which he was tried and as of now, there is no other case pending against him. It is further recorded that the applicant/appellant is remorseful about his past and wants to do something better for his family and himself.

5. As per the nominal roll dated 18.08.2013 received from Superintendent, Central Jail No.1, Tihar, New Delhi, the appellant/applicant had undergone about 2 months and 18 days of incarceration till 31.10.2013, when he was released on bail at the time of his conviction by the order of learned ASJ.

6. It is a matter of record that *vide* order dated 29.11.2013 passed by learned predecessor bench of this Court, the sentence of the appellant/applicant was suspended during the pendency of the present appeal. It is also a matter of record, as per the aforesaid Probation Officer's Report, the appellant/applicant has not been involved in any other offence.

7. In totality of the facts and circumstances, the order on sentence is modified to the extent that the appellant/applicant shall be released on probation on his furnishing personal bond of Rs. 10,000/- with one surety of the like amount to the satisfaction of the Probation Officer for the remaining period of his sentence, subject to following conditions:



- a) The applicant/appellant shall appear before the Probation Officer on 28.05.2024 at 02:00 PM.
 - b) The applicant/appellant shall keep peace and be of good behaviour during the period of probation.
 - c) The applicant/appellant shall not indulge in any criminal activity, during the said period, failing which he will be directed to make himself available to receive the sentence as and when called upon.
8. With the aforesaid directions, the appeal is partly allowed and disposed of.
9. Pending applications, if any, also stand disposed of.
10. Order be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA, J

MAY 21, 2024/nk

Click here to check corrigendum, if any