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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.A. 67/2017
MUKESH KUMAR SINGHAppellant
Through: In person

versus

STATERespondent
Through: Mr.Pradeep Gahalot, APP for State with
SI Vivek Tomar, P.S. Govindpuri

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **14.10.2025**

1. The present appeal has been filed under Section 374 Cr.P.C. by the appellant assailing the judgment and order on sentence dated 05.12.2016 passed by ASJ-02, Saket Courts, New Delhi in Sessions Case No. 1709/2016 arising out of FIR No.463/2012 registered at P.S. Govind Puri, Delhi under Sections 394/34 IPC.

The appellant was convicted for the offence punishable under Sections 411 IPC and sentenced to undergo RI for a period of 1 year. The benefit of Section 428 Cr.P.C. was granted to the appellant.

The sentence of the appellant was suspended during the pendency of the present appeal by this Court vide order dated 20.04.2017.

2. In support of its case, the prosecution examined 14 witnesses. The material witness includes the I.O., who was examined as PW-7, deposed that the appellant who was involved in the commission of the offence had snatched the mobile phone alongwith *Rohit* and *Vicky* and that he would be coming with the robbed mobile phone to sell it, approaching from the right



side of Pocket-10 and would be proceeding towards Gali No. 13 via Sai Mandir T-point, Baba Fateh Singh Marg. Acting on this information, he alongwith informer and Ct. Mahipal Singh (PW-1) reached the T-point. Around 6 P.M., one boy was seen coming from the *jhuggies* of Pocket-10 and on the pointing out by the informer, the said boy was apprehended. Upon conducting his personal search, a Samsung mobile phone was recovered from the right-side pocket of his jeans. The boy disclosed his name as *Mukesh*. The I.O. further deposed that he checked the IMEI number of the recovered mobile phone with the receipt provided by the complainant and found that the IMEI number matched. Accordingly, the mobile phone was seized.

Ct. *Mahipal Singh* was examined as PW-1, is also a witness to the recovery of the mobile phone and has deposed on similar lines, thereby corroborating the testimony of PW-7.

3. A perusal of the record indicates that the testimony of PW-7, who correctly identified the appellant in Court, alongwith the testimony of PW-1, and the confession of the appellant, has proved the commission of the offence by the appellant beyond reasonable doubt. The recovery of the mobile phone from the appellant stood duly established as being the same mobile phone which had been robbed. The appellant failed to furnish any plausible explanation for being in possession of the said mobile phone. Although the complainant did not testify in Court and the knife allegedly used in the offence was not recovered, the appellant was acquitted of the charges under Sections 394 and 397 IPC. Nonetheless, it stands established that the appellant had dishonestly received or retained the mobile phone belonging to the complainant, knowing or having reason to believe it to be



stolen property. Consequently, the conviction of the appellant is upheld qua the offence under section 411 IPC.

4. At this stage, learned counsel appearing for the appellant submits, that the appellant, who is present in Court and has handed over his gate pass, does not wish to press the present appeal on merits and prays that he be released for the period already undergone by him. Reliance is further placed on the following extract of decision by Supreme Court in Sonadhar Vs. State of Chhattisgarh, reported as **2021 SCC OnLine SC 3682**:

“28. We thus issue the following directions:

a) A similar exercise be undertaken by the High Court Legal Services Committee of different High Courts so that convicts represented by legal aid Advocates do not suffer due to delay in hearing of the appeals. NALSA will circulate this order to the concerned authority and monitor the exercise to be carried on.

b) The Delhi High Court Legal Services Committee would take up the cases of those convicts who have undergone more than half the sentence in case of fixed term sentences and examine the feasibility of filing bail applications before the High Court, while in case of ‘life sentence’ cases, such an exercise may be undertaken where eight years of actual custody has been undergone.

c) We are of the view that in fixed term sentence cases, an endeavor be made, at least as a pilot project, in these two High Courts to get in touch with the convicts and find out whether they are willing to accept their infractions and agree to disposal of the appeals on the basis of sentence undergone.

d) A similar exercise can be undertaken even in respect of ‘life sentence’ cases where the sentenced persons are entitled to remission of the remaining sentence i.e., whether they would still like to contest the appeals or the remission of sentence would be acceptable to such of the convicts.”

5. Learned APP for the State has handed over the status report, which is taken on record, and submits that the appellant has one other involvement in a case arising out of FIR No. 619/2015, registered under Sections 379/411 IPC, however, he is stated to have been acquitted in the said case.



6. The appellant has been facing trial since the year 2012. As per the nominal roll on record dated 17.04.2017, he has undergone about six months, and his conduct in jail has been reported to be satisfactory. Keeping in view of the facts and circumstances of the case, as discussed hereinabove, the substantive sentence imposed upon the appellant is modified to the period already undergone by him.

7. The personal bond furnished by the appellant stands cancelled and the sureties are discharged.

8. The present appeal is partly allowed and disposed of in the above terms.

9. A copy of this order be communicated to the concerned Jail Superintendent as well as to the Trial Court for information and necessary compliance.

MANOJ KUMAR OHRI, J

OCTOBER 14, 2025

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