



2025:DHC:10105



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

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Date of Decision: 10.11.2025

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CRL.A. 154/2018 and CRL.M.(BAIL) 1263/2019

JITENDER

.....Appellant

Through: Ms. Supriya Juneja, Adv. (through
VC)

versus

STATE OF NCT DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State,
with SI Sudesh Jangra, PS North
Rohini

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present appeal has been preferred under Section 374 Cr.P.C., assailing the judgment of conviction dated 18.12.2017 and the order on sentence dated 22.12.2017, passed by the learned ASJ-II (North-West), Rohini Courts, Delhi, in Sessions Case No. 52085/16, arising out of FIR No. 74/2013, registered at P.S. North Rohini, for the offence punishable under Section 392/34 IPC.
2. Vide the impugned order, the appellant was sentenced to undergo Rigorous Imprisonment for 05 years and a fine of Rs.5,000/-, in default to undergo Simple Imprisonment for 15 days, for the offence punishable under Section 392/34 IPC. The benefit under Section 428 Cr.P.C. was extended to him.



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3. Vide order dated 08.11.2019 the appellant was granted bail by this Court.
4. Briefly stated, the case of the prosecution was that on 16.02.2013, the complainant, Rohit, a Civil Services aspirant, was standing in the queue at Rohini West Metro Station when he was approached by two persons who were later identified as the present appellant Jitender and co-accused Pankaj Verma @ Nikhil. One of them lured the complainant downstairs on the pretext that his mother had witnessed him beating their brother. Thereafter, the co-accused placed a knife on his back, forced him onto a motorcycle driven by the appellant, and took him to a place at Sector-11, Rohini, where they robbed him of a gold chain with two lockets, a silver bracelet, a wallet containing Rs. 2,000/-, and one mobile phone before fleeing the spot.
5. During trial, the prosecution examined fourteen witnesses, including the complainant, Rohit (PW-8), who deposed regarding details of the incident and After about four months, i.e., on 17.06.2013, while the complainant was returning home from the Metro Station, he noticed that one of the accused, namely Pankaj Verma, was standing near a footpath. The complainant promptly informed the police, and on his pointing out, the said accused was apprehended and arrested. He further supported the prosecution version and identified both accused as the perpetrators of the offence. The complainant also identified the motorcycle used in the incident, which was registered in the name of the appellant. The prosecution further examined police officials who deposed regarding arrest, seizure, and recovery proceedings.
6. In his examination under Section 313 Cr.P.C., the appellant denied all



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incriminating evidence and claimed false implication, alleging that he had been lifted from his house at the instance of the police. No defence evidence was led.

7. Upon appreciation of the evidence, the Trial Court found the testimony of the complainant consistent, reliable, and trustworthy. The Court noted that the complainant had correctly identified both accused in Court, as well as the motorcycle used in the offence, and that his version was duly corroborated by contemporaneous documents. While the recovery of the mobile phone was found to be doubtful due to mismatch in IMEI numbers, the Court held that such discrepancy was not sufficient to discard the overall prosecution case. The learned ASJ concluded that the ingredients of robbery under Section 392 IPC, read with Section 34 IPC, stood proved beyond reasonable doubt, but acquitted the appellant of the charge under Section 397 IPC for lack of proof of use of any deadly weapon.

This Court finds no infirmity in the reasoning adopted by the Trial Court and concurs with its findings while upholding the conviction of the appellant under Sections 392/34 of the IPC.

8. The appellant is present in Court and is duly identified by the IO. He has handed over his gate-pass. Learned counsel for the appellant, on instructions, submits that the appellant does not wish to press the appeal on merits and confines his prayer to seeking modification of the sentence to the period already undergone. It is further submitted that the appellant has been in custody for over two years, has no pending cases, and belongs to a poor family background. The appellant is presently 40 years of age, employed as a security guard, and has his mother, wife and daughter dependent upon him.

9. Learned counsel further submits, on instructions and on referring to



the order dated 08.11.2019, that in compliance thereof, the appellant has furnished an FDR in the name of his wife as surety. She further submits that upon release of the FDR, the appellant undertakes to deposit the fine imposed by the Trial Court.

10. The learned APP for the State has handed over a status report on the aspect of previous involvements, which is taken on record.

11. As per the Nominal Roll the appellant records that he has undergone a total custody period of about 2 years and 9 months, including remission. His fine is recorded as unpaid.

12. The record further reflects that the appellant was tried along with co-convict Pankaj Verma, whose appeal being CRL.A. 611/2018 was disposed of by this Court on 12.06.2020, upholding his conviction under Section 392/34 IPC.

13. The law with regard to release of the appellant in cases where the convict has undergone more than half of the sentence was laid down by the Supreme Court in Sonadhar v. State of Chhattisgarh decided on 06.10.2021, in **SLP (CRL)No. 529/2021**. The relevant portion of the same is extracted hereinafter:

'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 endeavour 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.

Our aforesaid additional directions are based on a premise that at times if a convict has actually done of what he is accused of and he is remorseful, he may be willing to accept his acts and suffer a lesser sentence. We make it clear that the objective is not to compel or extract acceptance from such convicts depriving of the right of appeal.'

14. Keeping in view that the appellant had refused to participate in the TIP, was identified in Court by the complainant, and that the motorcycle used in the commission of the offence was registered in his name, this Court finds the testimony of the complainant to be credible and worthy of reliance. With respect to the previous involvements, a report dated 26.11.2019 that has been handed over, the appellant has two prior involvements in FIR No. 0171/2010, P.S. Nand Nagari (under Sections 365/395/412/34 IPC) wherein he was acquitted, and FIR No. 1202/2015, P.S. Mukherji Nagar (under Section 392/34 IPC) wherein he was discharged.

15. Having considered the material on record and the submissions, this Court finds no infirmity in the findings or appreciation of evidence by the Trial Court. However, considering the overall circumstances, including that the appellant has already undergone a substantial portion of the sentence, and his familial responsibilities as noted, this Court is of the view that the ends of justice would be adequately met by modifying the sentence to the period already undergone.

16. Consequently, while the conviction of the appellant under Section 392/34 IPC is upheld, the sentence is modified to the period already undergone. The fine imposed by the Trial Court shall remain intact. He is directed to pay the fine amount of Rs. 5,000/-, within six weeks from today



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and provide proof of receipt of such payment to the concerned IO. In case of default, the appellant shall undergo the default sentence as imposed by the Trial Court.

The appellant shall be at liberty to approach the Trial Court for release of FDR that was furnished as surety.

17. The appeal is partly allowed and accordingly disposed of in the above terms. Pending applications, if any, also stand disposed of.

18. The bail bonds furnished by the appellant stand cancelled and his sureties are discharged.

19. A copy of this order be sent to the concerned Trial Court and concerned Jail Superintendent for information and compliance.

MANOJ KUMAR OHRI
(JUDGE)

NOVEMBER 10, 2025
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