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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 166/2018**
HARPREET SINGHAppellant
Through: Counsel for appellant.

versus

STATE OF DELHIRespondent
Through: Ms. Shubhi Gupta, APP for State with
SI Neeraj, P.S. Kashmiri Gate, Delhi

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
28.11.2025

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1. By way of the present appeal, the appellant seeks to assail the judgment of conviction dated 17.01.2018 and order on sentence dated 29.01.2018 passed by the learned ASJ-04, Central, Tis Hazari Courts, Delhi in Sessions Case No. 27299/2016 arising out of FIR No. 39/2011 registered under Sections 328/379 IPC at P.S. Kashmere Gate.

Vide the impugned order on sentence, the appellant was sentenced to undergo RI for a period of 2 years along with fine of Rs.10,000/-, in default whereof he would undergo SI for 1 month, for the offence punishable under Section 379 IPC. He was further sentenced to undergo RI for a period of 6 years along with fine of Rs.10,000/-, in default whereof he would undergo SI for 1 month, for the offence punishable under Section 328 IPC. Both sentences were ordered to run concurrently and the benefit under Section 428 Cr.P.C. was extended to the appellant.

The appellant's sentence in the present case was suspended vide order dated 29.10.2018.



2. Pithily put, the case of the prosecution is that on 24.02.2011 the complainant/*Vijay Paul* reached ISBT, Kashmere Gate, to board a bus for Shimla. While waiting, the appellant herein struck up a conversation with him and told him that he too had to travel towards Solan. The appellant, as a false show of friendship, purchased two tickets of adjoining seats and handed one ticket to the complainant. After both of them boarded the bus and sat down, the appellant offered him juice, upon drinking which the complainant became unconscious. He regained consciousness the next evening at Indira Gandhi Medical College Hospital, Shimla, and subsequently discovered that his mobile phone, camera, purse containing Rs.6,000/- as well as cards, and gold jewellery had been stolen. Investigation resulted in the recovery of the stolen mobile phone from co-accused/*Gagandeep* (since proclaimed offender) and the recovery of the gold ring, gold chain and gold bracelet at the instance of the appellant herein. The appellant refused to join TIP, and the complainant correctly identified the recovered jewellery during the TIP of case property.

3. The prosecution examined 24 witnesses in support of its case, including the complainant (PW-1), the medical witness from IGMCH Shimla (PW-22), and the investigating officials, amongst others. The Trial Court found the complainant's testimony to be clear, consistent, and firmly corroborated by the surrounding circumstances. He duly identified the appellant in Court as the person who had made him drink the juice on the bus, and deposed that he regained consciousness only at the hospital in Shimla, which is when he realised that all his belongings were missing. His version was supported by the medical papers (Ex. PW-1/B) which recorded an alleged history of "*something being given in cold drink*". The recovery of



the stolen mobile phone from *Gagandeep* and the recovery of the complainant's gold jewellery from the appellant were proved by the investigating witnesses.

4. The Trial Court held that the complainant had been rendered unconscious after consuming the juice offered by the appellant, thereby satisfying the ingredients of Section 328 IPC, and further that the complainant's belongings had been removed while he was unconscious and that part of the stolen property was recovered from the appellant, who failed to offer a credible explanation for its possession. The defence contention that the absence of a medical opinion identifying the specific intoxicant weakened the prosecution case was rejected in view of the complainant's consistent testimony, the alleged history recorded in the medical evidence on record, and the corroborative recovery of the stolen articles. Based on the material on record, and keeping in view the consistent testimony of the complainant attributing a specific role to the appellant, together with the corroborative medical and recovery evidence, this Court concurs with the findings of the Trial Court and finds no ground to interfere with the impugned judgment. Consequently, the conviction of the appellant is upheld *qua* the offences punishable under Sections 328 and 379 IPC.

5. Learned counsel for the appellant submits, on instructions, that the appellant, being fully aware of the consequences, does not wish to press the present appeal on merits and instead prays that he be released on the period of custody already undergone. Learned counsel submits that the appellant has already undergone over half of his substantive sentence and places reliance upon Sonadhar Vs. State of Chhattisgarh, reported as **2021 SCC OnLine SC 3682**.



6. Learned APP for the State, on instructions, submits that the appellant has prior involvements. She has handed over a status report in this regard and the same is taken on record. Upon a perusal of the same, it is observed that while the appellant has been convicted in one case, the same was much prior in time to the present case.

7. The appellant is presently about 40 years of age and is stated to be married with two minor children who are dependent on him, he being the sole bread earner of the family. A plea for leniency has been advanced on his behalf on the ground that there is no one else to look after his family.

8. The latest nominal roll on record dated 26.11.2025 reflects that the appellant has undergone more than 3 years of rigorous imprisonment. However, the order dated 29.10.2018 records that he had undergone 4 ½ years of imprisonment. On both counts, he has undergone more than half of his substantive sentence.

9. Having regard to the fact that the incident pertains to the year 2011, the facts noted above, the principles in *Sonadhar* (supra), and the aforementioned mitigating circumstances, the appellant's prayer for release on the period already undergone is accepted. The conviction of the appellant under Sections 328/379 IPC is upheld; however, the substantive sentence awarded to him is modified to the period already undergone by him.

The sentence of fine of Rs.20,000/- imposed upon the appellant is, however, maintained. After payment of the same, the receipt thereof should be furnished to the concerned I.O. In case the appellant fails to deposit the said fine, he shall undergo the sentence in default of payment of fine as imposed by the Trial Court.



10. The present appeal is partly allowed in the above terms.
11. A copy of this order be communicated to the Trial Court as well as the concerned Jail Superintendent.

MANOJ KUMAR OHRI, J

NOVEMBER 28, 2025/rd