



2025:DHC:10899



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

% Reserved on : 03.12.2025
Pronounced on : 04.12.2025
Uploaded on : 04.12.2025

+ **CRL.A. 422/2018**

BITOO SINGH

.....Appellant

Through: Mr. M.L. Yadav, Advocate and Mr.
Prashant, Advocate.

versus

THE STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Surbhi Aggarwal, P.S.
Punjabi Bagh.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. By way of the present appeal filed under Section 374(2) Cr.P.C., the appellant seeks to assail the judgment of conviction and order on sentence dated 23.12.2017 passed by the learned ASJ-05, West, Tis Hazari Courts, Delhi, in Case No. 56617/2016 arising out of FIR No. 616/2015 registered under Sections 392/394/397/411/34 IPC at P.S. Punjabi Bagh.

Vide the impugned order on sentence, the appellant was directed to undergo RI for a period of 7 years alongwith fine of Rs.5,000/-, in default whereof he would undergo SI for 2 months, for the offence punishable under Sections 392 read with 397 IPC; and RI for a period of 3 years alongwith fine of Rs.7,000/-, in default whereof he would undergo SI for 3 months, for



the offence punishable under Section 394 IPC. Both sentences were directed to run concurrently and benefit under Section 428 Cr.P.C. was extended to the appellant.

2. Learned counsel for the appellant, while assailing the impugned judgment, restricts his contentions only to the conviction of the appellant under Section 397 IPC. He contends that the said conviction is unsustainable as the testimony of the complainant/PW-2 does not reveal that the appellant used any deadly weapon or caused grievous hurt to him at the time of commission of the robbery.

3. PW-2/*Balram* deposed that on 11.06.2015 at about 10:00 a.m., he had boarded Bus Route No. 938 from Madipur for Punjabi Bagh and that three boys inside the bus tried to take out his mobile phone from his pocket. He resisted, alighted near Punjabi Bagh Gol Chakkar and all three boys also alighted, demanded his mobile phone and threatened him, whereafter they snatched his Micromax mobile phone and ran towards Maharaja Agrasen Hospital.

4. Learned APP for the State submits that the appellant was apprehended at the spot and the blade was recovered from him, however, no separate charge under Section 25/27 Arms Act was framed against him.

5. I have heard the learned counsels for the parties and perused the record.

6. The primary question that requires scrutiny is whether the conviction of the appellant under Section 397 IPC is sustainable in the facts of the present case. In his Court deposition, PW-2 has not deposed that he was



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threatened with the concerned blade wrapped in a handkerchief at the time of the robbery. He has simply stated that upon his alighting from the bus, the three accused persons surrounded him, snatched his mobile phone, and ran away.

7. Insofar as the incident of robbery is concerned, PW-2 is the only witness, and his statement does not reveal the use of a deadly weapon. This Court is, therefore, of the considered view that, in the above stated factual matrix, the appellant's conviction under Section 397 IPC cannot be sustained. The same is accordingly modified to a conviction under Section 392 IPC.

8. The appellant's conviction under Section 394 IPC however, having remained unassailed, and even on an independent assessment of the testimonies of PW-1 read with PW-2, is upheld.

9. As far as the offence under Section 392 IPC is concerned, the appellant's order on sentence is modified to rigorous imprisonment for a period of 4 years RI alongwith a fine of Rs.5,000/-, in default whereof he would undergo SI for 2 months. The appellant has already completed his sentence under Section 394 IPC.

10. The appellant's latest nominal roll on record dated 01.12.2025 reflects that he has already undergone about 5 years of incarceration. In view of the same, the appellant has already undergone his entire substantive sentence as well as the sentence in default of payment of fine under Sections 392 and 394 IPC.

11. The present appeal is partly allowed in the above terms.



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12. The personal bond furnished by the appellant stands cancelled and his surety is discharged.

13. A copy of this judgment be communicated to the Trial Court as well as the concerned Jail Superintendent.

MANOJ KUMAR OHRI
(JUDGE)

DECEMBER 04, 2025
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