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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 394/2016**

MOHIT @ AVINASH

.....Appellant

Through: Mr. Rajender Kumar, Advocate with
appellant in person.

versus

THE STATE

.....Respondent

Through: Ms. Shubhi Gupta, APP for State with
SI Rajesh Kumar, P.S. Vijay Vihar.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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12.09.2025

1. The present appeal has been instituted under Section 374 Cr.P.C. against the impugned judgment of conviction dated 16.03.2016 and order on sentence dated 22.0.2016, passed by the ASJ-02, Rohini Courts, Delhi in Sessions Case No. 60/14 arising out of FIR No. 187/2014 registered under Sections 392/397/411/34 IPC at P.S. Vijay Vihar, Delhi.

Vide the impugned order on sentence, the appellant was sentenced to undergo RI for a period of 4 years for the offence punishable under Section 392/34 IPC alongwith fine of Rs.20,000/-, in default whereof he would undergo SI for 3 months. The appellant was granted the benefit under Section 428 Cr.P.C.

The sentence of the appellant was suspended during the pendency of the present appeal vide order dated 14.09.2016.

2. The complainant (PW-10) in his testimony before the Trial Court



deposed that while he was walking towards his house, two boys on the pretext of asking for *bidi*, accosted him, one of whom threatened him with a knife while the other snatched his mobile phone, pushed the complainant and fled. The complainant subsequently identified the appellant in a TIP and later reiterated his identification in court. The testimony of the complainant is consistent, cogent, and inspires confidence and is corroborated by the testimonies of police officials.

3. It is noted that the appellant and co-accused were apprehended by PW-14 and PW-18 on receiving secret information and the robbed mobile phone was recovered, and it was duly proved to belong to the complainant by identifying the unique IMEI number. The non-recovery of the knife is immaterial and this recovery is sufficient. Moreover, the active participation of both, the appellant and the co-accused, shows that they shared a common intention to commit this offence. Considering the aforesaid, this court, concurs with the findings of the Trial Court and finds that no grounds to interfere with the same are made out. Consequently, the conviction of the appellant is upheld qua the offence under Section 392/34 IPC.

4. At this stage, the learned counsel for the appellant, on instructions from the appellant who is present in Court and duly identified by the I.O., submits that the appellant does not wish to press the present appeal on merits and instead prays that he be released on the period already undergone by him. He further undertakes to deposit the fine in two weeks.

5. Learned APP for the State, on instructions, submits that appellant is involved in other cases but is on bail in the said cases, a status report in this regard has been handed over and the same is taken on record. It is further submitted that the appeal of co-convict Sanjay being CRL.A. 623/2016



already stands abated.

6. The appellant is stated to be 36 years of age, working as an *auto rickshaw* driver is the sole bread earner of his family, which comprises of his wife, three children and a brother. His conduct in the Jail has been reported to be satisfactory. The appellant has faced trial since the year 2014.

7. Keeping in view of the aforesaid and as per the nominal roll on record dated 05.09.2016, the appellant has already undergone about 02 years, 01 month and 20 days and earned remission of 01 month and 10 days, the substantive sentence of the appellant in the present appeal is modified to the period already undergone by him. The sentence of fine however, shall remain as it is. The appellant shall pay the fine imposed upon him within a period of two weeks before the Trial Court, if not already paid. The receipt be furnished with the I.O. If the appellant fails to deposit the fine, he shall undergo the default sentence.

8. The present appeal is partly allowed and disposed of in the above terms. His bail bonds and surety stands cancelled.

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

MANOJ KUMAR OHRI, J

SEPTEMBER 12, 2025

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