



\$~33

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

+ CRL.A. 553/2018

DEVENDER @ BABLU

.....Appellant

Through: Mr. S.C. Buttan and Mr. Ojasvi
Annadi Shambhu, Advocates with
appellant in person

versus

THE STATE (GOVT OF NCT OF DELHI)Respondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Satish Kumar PS Prashant
Vihar, Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

21.11.2025

%

1. By way of the present appeal under Section 374(2) Cr.P.C., the appellant assails the judgment of conviction dated 21.04.2018 and the order on sentence dated 24.04.2018, passed by the learned Special Judge (NDPS), North District, Rohini Courts, Delhi, in SC No. 58082/2016, arising from FIR No. 500/2013, P.S. Prashant Vihar, whereby the appellant was convicted for the offence punishable under Section 420/34 IPC and sentenced to undergo Rigorous Imprisonment for four years and six months, along with a fine of Rs.50,000/-, and in default, to undergo Simple Imprisonment for one year. The benefit of Section 428 Cr.P.C. was extended.

2. The sentence of the appellant was thereafter suspended vide order dated 22.05.2019 passed by this Court.



3. Briefly stated, the case of the prosecution is that on 20.09.2013, the complainant was allegedly deceived by three persons, including the appellant, who, in furtherance of a common intention, induced him to consume a cold drink laced with an intoxicant and dishonestly persuaded him to encash fixed deposits and withdraw Rs.12,70,000/-, which amount was thereafter taken away by the co-accused persons on the pretext of a lottery-related scheme. After regaining consciousness the next morning and discovering the money missing, the complainant lodged the present FIR.

4. During trial, the prosecution examined 20 witnesses, including the complainant (PW-9), his wife (PW-6), bank officials, and the investigating officers. The complainant broadly supported the prosecution version and identified the accused persons in Court. The appellant, in his statement under Section 313 Cr.P.C., denied all allegations and asserted false implication, claiming that no recovery was ever effected from him. No defence evidence was led.

5. Upon appreciation of evidence, the learned Trial Court acquitted the appellant of the charge under Section 328/34 IPC, noting the absence of medical evidence to substantiate intoxication. However, relying principally on the depositions of PW-9 and PW-6, as well as the banking records establishing withdrawal of Rs.12,70,000/-, the Trial Court held that the prosecution had proved the ingredients of Section 420/34 IPC beyond reasonable doubt and accordingly convicted the appellant and co-accused.

6. Upon a perusal of the trial court record, this Court finds no infirmity in the appreciation of evidence or the conclusions arrived at by the Trial Court. The depositions of the material witnesses, supported by the surrounding circumstances and the recovery proceedings, sufficiently



corroborate the prosecution case. Accordingly, the conviction of the appellant for the offence punishable under Section 420 read with Section 34 IPC is upheld.

7. The appellant is present in person and is duly identified by the IO. At this stage, learned counsel for the appellant submits, on instructions, that the appellant does not wish to press the appeal on merits and confines the present challenge to seeking modification of the sentence to the period already undergone. It is submitted that the appellant comes from an economically weak background, is 51 years of age, and earns his livelihood as an auto-rickshaw driver. He is the sole breadwinner of his family and has two children and his wife who are dependent upon him. It is further submitted that in view of his financial hardship, he prays for a reduction of the fine amount imposed by the Trial Court.

8. Learned APP for the State has submitted on instructions that, the appellant has no other criminal involvement.

9. As per the Nominal Roll on record, the appellant has undergone two years of sentence including remission. It further records that no other criminal involvement apart from the present case, and that he has not deposited the fine amount.

10. Having considered the material on record and the submissions made, this Court finds no infirmity in the findings or appreciation of evidence by the learned Trial Court insofar as the conviction under Section 420/34 IPC is concerned, and the same is accordingly affirmed. However, for the purposes of sentence, it is submitted that the appellant comes from an economically weak background, is 51 years of age, and is the sole breadwinner of his family. He has two children and his wife dependent on him. Having regard



to the overall circumstances, this Court is of the view that the ends of justice would be adequately met by modifying the sentence to the period already undergone.

11. Consequently, while the conviction of the appellant for the offence under Section 420/34 IPC is upheld, the sentence is modified to the period already undergone. Looking into the other mitigating factors as well as the poor financial condition of the appellant, as stated, the sentence of fine is reduced to Rs. 15,000/-, which the appellant shall deposit within four weeks from today and furnish proof of such deposit before the IO. In case of default, the appellant shall undergo the default sentence as directed by the Trial Court.

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

13. Subject to payment of fine, the bail bonds furnished by the appellant stand cancelled and his sureties are discharged.

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

MANOJ KUMAR OHRI, J

NOVEMBER 21, 2025

kv