



2025:DHC:11986



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

% Reserved on : 17.12.2025
Pronounced on : 24.12.2025
Uploaded on : 24.12.2025

+ **CRL.A. 458/2016**

SHAMIM

.....Appellant

Through: Mr. Neeraj Bhardwaj, Advocate
(DHCLSC).

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP with
SI Neeraj Rahi, P.S. Nabi Karim.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. By way of present appeal filed under Section 374(2) read with Section 383 Cr.P.C., the appellant seeks to assail the judgment dated 11.03.2016 whereby he was convicted for the offences punishable under Sections 392/34 as well as Section 397 IPC; and the order on sentence dated 14.03.2016, whereby he was sentenced to undergo RI for 7 years for the offence under Section 397 IPC and RI for 3 years for the offence under Sections 392/34 IPC along with fine of Rs.1,000/-, in default whereof he would undergo SI for 3 months. Both sentences were directed to run concurrently and the benefit under Section 428 Cr.P.C. was granted to the appellant.



2. The appellant completed his substantive sentence as well as his sentence in default of payment of fine, whereafter he was released from jail on 29.04.2021. He, however, is stated to be in custody in connection with another case, arising out of FIR No. 105/2024 registered under Section 6 POCSO and Sections 323/363 IPC, trial of which is stated to be pending.

3. In the present case, the investigation commenced in the context of an incident that took place on 22.03.2015 at about 7:00 pm. The complainant alleged that he was going to his workplace and had reached *Pul Paharganj*, when he was suddenly stopped by 2 boys, one of whom was of short height. The complainant alleged that the taller boy had a knife in his hand, which he put on the complainant's stomach and asked to hand over whatever the complainant had with him. The shorter boy took out Rs.500/- (in the denomination of Rs.100/- each) from the back pocket of the complainant's jeans. After threatening him with dire consequences, both the accused fled away from the spot. The incident was reported, resulting in the registration of the subject FIR under Sections 392/397/37 IPC at P.S. Nabi Karim. On the pointing out of the complainant, both the appellants came to be arrested on the very same day. The shorter boy turned out to be a juvenile, and Rs.200/- were recovered from his possession. From the possession of the taller boy, i.e., the present appellant, three notes of Rs.100/- denomination and one *buttondar* knife were recovered. The trial proceeded against the present appellant in which the prosecution examined 6 witnesses in total.

4. The complainant/*Shivam Tiwari* appeared as PW-4 and reiterated the facts given in the complaint. He identified the present appellant as the person who had shown him the knife. He deposed that he was robbed of Rs.500/-. When the accused persons fled away, he dialed 100 number



himself. On arrival of the police, they went in search of the accused persons and found them standing near the gate of NDRS. Both the accused persons were apprehended on the pointing out of the witness and the taller one disclosed his name as *Shamim*. On a search of the appellant, a knife was recovered from his possession. The witness identified his signatures on the seizure memo prepared at the spot, as well as the case property, i.e., the said knife, which was exhibited as Ex. P1.

In cross-examination, he stated that he did not raise any alarm despite many public persons being present as the appellant had put a knife at his stomach. He denied the suggestion that the appellant had been falsely implicated and that nothing was recovered at his instance.

5. SI *Munish Kumar*, examined as PW-5, deposed that on receipt of DD No. 8A, he reached the spot along with Ct. *Jagdish*. They searched for the accused around the place of the incident and when they reached near the gate of New Delhi Railway Station, the complainant pointed out two persons standing near a cigarette/beedi *khokha* (kiosk). He apprehended both the accused persons, one of whom disclosed his name as *Shamim*, i.e., the present appellant. The other accused turned out to be a juvenile. On search of the appellant, three currency notes of Rs.100/- denomination were recovered along with one *buttondar* knife. On search of the JCL, two currency notes of Rs.100/- were recovered.

In cross-examination, it was stated that the owner of the *khokha* shop had declined to become a witness. The suggestion of planting the knife or Rs.300/- upon the appellant was denied.

6. Ct. *Jagdish* was examined as PW-6, and his testimony is cumulative to the testimony of SI *Munish Kumar*. The other police officials deposed



about various steps taken during the investigation.

7. The appellant, in his statement recorded under Section 313 Cr.P.C., denied the prosecution case by claiming false implication; however, he did not lead any defence evidence.

8. On an overall appreciation of the testimony of the complainant as well as of SI *Munish Kumar* and Ct. *Jagdish*, I find no inconsistency in the prosecution case. The only contention raised during the appeal on behalf of the appellant is that despite the place of the incident being a busy location, no independent person was joined in the proceedings, and the same is meritless. The appellant was apprehended immediately after the occurrence of the incident. The I.O. has explained that he had asked the *Khokha* shop owner to become a witness, but he declined. In view of the testimonies of the aforesaid three witnesses, the recovery of the currency notes as well as the *buttondar* knife, I find no ground to interfere with the judgment of conviction and the order on sentence rendered by the Trial Court. Consequently, the present appeal is dismissed.

9. A copy of this judgment be communicated to the Trial Court and the concerned Jail Superintendent.

MANOJ KUMAR OHRI
(JUDGE)

DECEMBER 24, 2025

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