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

+ **CRL.A. 589/2016**

DEEPAK KUMAR

.....Appellant

Through: Appellant in person

versus

THE STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Virender, P.S. Kamla Market

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

09.10.2025

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1. The present appeal has been filed under Section 374 Cr.P.C. by the appellant assailing the judgment dated 09.05.2016 and order on sentence dated 25.05.2016 passed by ASJ-04, Tis Hazari Courts, Delhi in Sessions Case No. 07/2015 arising out of FIR No.77/2013 registered at P.S. Kamala Market under Sections 392/411/34 IPC.

The appellant was convicted for the offence punishable under Sections 392 IPC and sentenced to undergo rigorous imprisonment for a period of 2 years alongwith fine of Rs. 2,000/-, in default whereof, he was directed to undergo simple imprisonment for 7 days. The benefit of Section 428 CrPC was granted to the appellant.

The sentence of appellant was suspended during the pendency of the



present appeal by this court vide order dated 15.11.2017.

2. In support of its case, the prosecution examined 7 witnesses. The material witnesses in the present case includes Const. *Subodh* who was examined as PW-3, he deposed that while he was on night patrolling duty near Ajmeri Gate along with ASI Puran Chand, they noticed three persons running at a fast pace, being chased by a man shouting ‘*chor-chor*’. With the help of the complainant, they apprehended two of the accused persons, namely *Deepak Kumar* and *Yogesh*, while the third managed to escape. The complainant informed them that all three accused had robbed him, the appellant/*Deepak Kumar* had pointed a knife at him, while the co-accused/*Yogesh* had snatched his purse containing Rs.8,000/-, and the third co-accused, *Deepak @Akash*, had taken away his mobile phone. The I.O. was examined as PW-7, he corroborated the version of PW-3 and deposed on similar lines.

3. A perusal of the record indicates that the appellant alongwith *Yogesh* was apprehended by the police officials immediately after the incident. The recovery of the stolen property from the co-accused and the recovery of the knife from the appellant stands duly proved. However, the prosecution failed to establish that the appellant had actually used the knife during the course of the robbery, as the complainant could not be examined on account of his death on 23.08.2013 in a road traffic accident, which fact stands proved. Consequently, the appellant was rightly acquitted by the Trial Court under Section 397 IPC. On the other hand, the defence failed to prove their version that the appellant was returning from a birthday party and was wrongly



apprehended by the police while they were dispersing a crowd at around 2:00 a.m., it remains unsupported by any credible evidence. The plea of false implication is also unsubstantiated, as there is no indication of prior enmity between the appellant and the police officials. The testimony of PW-3, who had nabbed the appellant at the spot, was found sufficient to render finding of conviction.

Notably, the appeal being CRL.A. 690/2016 of accused/Yogesh has been abated and disposed of vide order dated 21.12.2022.

4. Having considered the material placed on record, this Court concurs with the findings of the trial court and finds no grounds to interfere with the same are made out. Consequently, the conviction of the appellants is upheld qua the offence under section 392/34 IPC.

5. At this stage, learned counsel appearing for the appellant states, upon instructions, that the appellant does not wish to press the present appeal on merits and prays that he be released on the period already undergone by him. It is further submitted that the appellant has already deposited the fine amount, by Receipt No. 000115701 dated 25.05.2016, which is on record.

6. The appellant is about 32 years of age and is presently employed as a gardener at an apple orchard in Uttarakhand. He is stated to be the sole breadwinner of his family, which comprises his wife and a one and a half year old child.

7. Learned APP for the State has handed over a status report indicating the other involvement of the appellant, which is taken on record. As per the said report, the appellant has one other involvement in a case arising out of



FIR No. 429/2015, registered under Section 25 of the Arms Act, in which he has been acquitted.

8. The appellant has been facing trial since the year 2013. As per the nominal roll dated 08.10.2025, which has been handed over and taken on record. His conduct in jail has been reported to be satisfactory. Keeping in view of the facts and circumstances of the case, as discussed hereinabove, the substantive sentence imposed upon the appellant is modified to the period already undergone by him.

9. The personal bond furnished by the appellant stands cancelled, the sureties are discharged and the FDRs, if any, shall be released.

10. The present appeal is partly allowed and disposed of in the above terms.

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

MANOJ KUMAR OHRI, J

OCTOBER 9, 2025

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