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

+ **CRL.A. 761/2016**

MADAN SEN

.....Appellant

Through: Mr.Habibur Rahman, Advocate
alongwith appellant (through VC)

versus

STATE

.....Respondent

Through: Ms.Shubhi Gupta, APP for State with
Ms.Yusra, Advocate with SI Ramesh Chand

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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05.12.2025

1. By way of present appeal, the appellant seeks to assail the judgement of conviction dated 01.06.2016 and order on sentence dated 04.06.2016 passed by ASJ-04(Central), Tis Hazari Courts, Delhi, in SC no. 34/2015 arising out of FIR no. 890/2014 registered under Sections 395/412 IPC at P.S. Kotwali, Delhi.

2. Vide order on sentence, the appellant has been directed to undergo RI for a period of 1 year and 9 months alongwith fine of Rs. 25,000/- for the offence punishable under Section 356/34 IPC, in default thereof would further undergo SI for 2 months; undergo RI for a period of 2 years and 9 months alongwith fine of Rs.25,000/- for offence under Section 379/34 IPC, in default thereof would further undergo SI for 3 months. The fine amount was directed to be released to the complainant as compensation. The benefit of Section 428 Cr.P.C. has been provided to the appellant.

Vide order dated 15.12.2016, the sentence of the appellant was suspended during the pendency of the present appeal.



3. Briefly put, the case of the prosecution is that on 07.11.2014, the complainant produced co-accused *Mohd. Ahmed* at the Police Station and stated that in the afternoon he had left his office carrying a brown bag containing Rs.4,75,000/-, 32 gold and diamond rings, 2 gold bangles, 4 diamond pieces, and one sunglass. When he reached near Shop No. 341–342, Dariba Kalan, at about 3:30/45 PM, 3-4 persons started walking alongside him. *Mohd. Ahmed* placed his green bag on the complainant's shoulder and another associate snatched the complainant's brown bag, handed it over to another accomplice, and fled from the spot. On suspicion, the complainant apprehended *Mohd. Ahmed* but could not locate his brown bag. During interrogation, *Mohd. Ahmed* disclosed that he, along with his associates *Salim, Sajid, Samir, Guddu, Raju, and Maniya*, had planned the robbery. He further disclosed that he, *Salim*, and *Sajid* had stayed in Room No. 6 at Azaz Hotel, while the other four stayed at different places but remained in contact over phone. On the day of the incident, they had all met near Gate No. 1, Jama Masjid, and proceeded towards Dariba Kalan where, as per their plan, they snatched the complainant's bag. While the other accused persons escaped with the bag, *Mohd. Ahmed* was caught by the complainant. *Mohd. Ahmed* disclosed the mobile numbers of three other accused persons, Police teams proceeded to Mumbai in search of the other accused. Acting on secret information, appellant and co-accused *Shamim Jafri* were apprehended upon deboarding the Pushpak Express, and Rs. 1,00,000/- each was recovered from their possession.

4. In support of its case, the prosecution examined 13 witnesses. The material witness i.e., the complainant, Manoj Jain was examined as PW-4. The hotel manager was examined as PW-3. The President of Dariba



Jewellery Association was examined as PW-5. The remaining witnesses were formal in nature and deposed regarding various aspects of the investigation.

5. A perusal of the record indicates that the testimony of the complainant is cogent, consistent, and inspires confidence, clearly establishing that his bag containing cash and jewellery was snatched at Dariba Kalan by a group of persons acting in concert. The CCTV footage produced by PW-5 corroborates the complainant's version, showing co-accused *Mohd. Ahmed* placing his green bag on the complainant's shoulder, while other associates, including the appellant and *Manoj*, surround the complainant. The conduct of the appellant, as captured in the footage, coupled with his admitted presence at the spot and simultaneous movement with the other accused persons, proves his participation in committing the offence. Further, the recovery of Rs.1,00,000/- from the appellant shortly after the incident at the Railway Station stands proved through the consistent and corroborative testimonies of PW-8, PW-9, and PW-11, and the appellant has offered no plausible explanation that the said amount was his personal money. The complainant thereafter identified the recovered articles during the TIP of property. The defence plea that the appellant was falsely implicated, or that he was arrested from a different location without any recovery, remained unsubstantiated.

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 appellant is upheld qua the offence under Sections 356/379/34 IPC was upheld.



6. At this stage, learned counsel for the appellant, on instruction from the appellant, submits that he is fully aware of the consequences, does not wish to press the present appeal on merits. He prays that since the appellant having undergone more than half the sentence, be released on the period already undergone by him in custody. He further prays that the fine imposed upon him be reduced as he belongs to poor strata of society.

7. Learned APP for the State has handed over a status report under the signatures of the DCP as per which, the appellant is stated to be not involved in any other case. The report is taken on record.

8. The nominal roll of the appellant dated 10.11.2025 is on record, which reflects that the appellant has undergone about 2 years and 4 months. His conduct in jail has also been noted as satisfactory.

9. The law regarding release of the appellant in cases where the convict has undergone more than half of the sentence was laid down by the Supreme Court in Sonadhar Vs. State of Chhattisgarh, reported as **2021 SCC OnLine SC 3683**, and the relevant portion of the same is extracted hereinunder:

“28. We thus issue the following directions:

a) A similar exercise be undertaken by the High Court Legal Services Committee of different High Courts so that convicts represented by legal aid Advocates do not suffer due to delay in hearing of the appeals. NALSA will circulate this order to the concerned authority and monitor the exercise to be carried on.

b) The Delhi High Court Legal Services Committee would take up the cases of those convicts who have undergone more than half the sentence in case of fixed term sentences and examine the feasibility of filing bail applications before the High Court, while in case of 'life sentence' cases, such an exercise may be undertaken where eight years of actual custody has been undergone.

c) We are of the view that in fixed term sentence cases, an endeavor be made, at least as a pilot project, in these two High Courts to get in touch with the convicts and find out whether they are willing to accept their infractions and agree to disposal of the appeals on the basis of sentence undergone.



d) A similar exercise can be undertaken even in respect of 'life sentence' cases where the sentenced persons are entitled to remission of the remaining sentence i.e., whether they would still like to contest the appeals or the remission of sentence would be acceptable to such of the convicts."

10. The appellant is about 32 years of age, earns his livelihood by selling vegetables, His parents has expired and he is presently residing with his wife and two daughters. He belongs to an economically weaker background.

11. Having regard to the fact that the incident pertains to the year 2014 and keeping in view of the facts and circumstances noted hereinabove as well as decision in Sonadhar (Supra), the substantive sentence of the appellant in the present appeal is hereby modified to the period already undergone by him. The sentence on default of payment of fine, however, is maintained, subject to payment of fine as modified hereinbelow.

12. Considering the appellant's modest means and the totality of the circumstances, the fine imposed upon him for the offence punishable under Section 356/34 IPC is reduced to Rs.12,500/- and the fine imposed upon him for the offence punishable under Section 379/34 IPC is also reduced to Rs.12,500/-. The appellant shall deposit the fine amount before the Trial Court within 2 months, failing which he shall undergo the default sentence. The appellant shall furnish a receipt with the concerned I.O. The fine amount deposited be released to the complainant.

13. Subject to deposit of fine amount, the personal bond furnished by the appellant stands cancelled and the sureties are discharged.

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



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

MANOJ KUMAR OHRI, J

DECEMBER 5, 2025

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