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

+ CRL.A. 388/2017

SAJID @ SAHID

.....Appellant

Through: Ms. Neha Kapoor, Advocate with
appellant in person.

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for State with
SI Anil PS Seemapuri, Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

06.11.2025

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1. The present appeal has been filed under Section 374 read with section 482 of the Code of Criminal Procedure, 1973, assailing the judgment of conviction dated 01.03.2017 and the order on sentence dated 20.03.2017, passed by the learned ASJ-03 (North-East), Karkardooma Courts, Delhi, in Sessions Case No. 44278/2015, arising out of FIR No. 91/2009, registered at P.S. Seemapuri, whereby the appellant Sajid @ Sahid was sentenced to undergo Rigorous Imprisonment for seven years under Section 392/34 IPC and three years under Section 411 IPC, along with a fine of Rs. 500/-, and in default, to undergo Simple Imprisonment for six months. The sentences were directed to run concurrently and he was granted the benefit of 428 Cr.P.C.

2. During the pendency of the present appeal, the sentence of the appellant Sajid @ Sahid was suspended vide order dated 14.05.2020, whereupon he was released on bail on 16.05.2020.



3. Briefly stated, the case of the prosecution is that on 14.03.2009, complainant Bal Mukund Rai, along with his associate Dharamvir Singh, was returning after collecting a cash payment of Rs. 10,00,000/-, when they reached near Chintamani Restaurant, Seemapuri, three persons on a motorcycle intercepted their scooter, threatened them with a pistol and knife, and robbed them of the said amount, their scooter, and two mobile phones. Subsequently, during investigation, the accused persons were apprehended, and part of the robbed amount and a mobile phone were recovered from the appellant Sajid @ Sahid.

4. Investigation was initiated on the basis of the statement of the complainant. During the course of investigation, the police apprehended the accused Joginder, Shambhu Mandal, and Sajid @ Sahid, from whose possession part of the robbed amount and the stolen articles were recovered. The robbed scooter was also recovered near the Dilshad Garden Metro Station. The charge sheet was filed on 30.10.2010.

5. During trial, the prosecution examined twenty witnesses, including the complainant's associate Dharamvir Singh (PW-3), the employer Arun Kumar Jain (PW-2), the Investigating Officers, and the recovery witnesses. The prosecution evidence established that the complainant and his associate were robbed of Rs.10,00,000/-, their mobile phones, and documents at the point of a pistol and a knife. The recovery of Rs.30,000/- and one mobile phone from the appellant Sajid @ Sahid was duly proved through the seizure memo. The accused were examined under Section 313 Cr.P.C., wherein they denied all incriminating circumstances and claimed false implication. They preferred to lead defence evidence but failed to produce any witnesses.



6. Upon appreciation of the evidence, the Trial Court held that the testimony of PW-3 Dharamvir Singh, who was an eye-witness to the incident, was consistent and reliable, and was corroborated by other prosecution witnesses and the recovery effected from the accused persons. The Court observed that the essential ingredients of robbery stood established beyond reasonable doubt, and convicted the appellant accordingly.

7. Having gone through the testimony of the complainant and Dharamvir Singh as well as the factum of recovery of robbed articles from the appellant, this Court finds no infirmity in the reasoning adopted by the Trial Court and concurs with its findings while upholding the conviction of the appellant under Sections 392/34 and 411 IPC.

8. At this stage, learned counsel appearing for the appellant, Sajid @ Sahid, submits that the appellant has already undergone custody for a substantial period and does not wish to press the present appeal on merits. It is submitted that the appellant confines his prayer to a modification of the sentence on the ground that he has already undergone more than half of the substantive sentence awarded to him.

9. Learned APP for the State has handed over a copy of the status report, as well as the latest nominal roll of the appellant received from the Superintendent. The same have been taken on record. As per the status report the appellant has no other criminal involvement.

10. The nominal roll of the appellant, Sajid @ Sahid, reflects that as on 04.11.2025, he has undergone a period of about four years and three months of incarceration, including remission. It further records that the appellant has not deposited the fine amount.



11. The law with regard to 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 v. State of Chhattisgarh decided on 06.10.2021, in **SLP (CRL)No. 529/2021** the relevant portion of the same is extracted hereunder:

'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 endeavour 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.

Our aforesaid additional directions are based on a premise that at times if a convict has actually done of what he is accused of and he is remorseful, he may be willing to accept his acts and suffer a lesser sentence. We make it clear that the objective is not to compel or extract acceptance from such convicts depriving of the right of appeal.'

12. This Court has perused the record and the judgment of the Trial Court. The conviction of the appellant rests primarily on the consistent and corroborated testimony of the eye-witness Dharamvir Singh (PW-3), supported by the employer Arun Kumar Jain (PW-2), and the recovery of stolen articles and part of the robbed amount from the possession of the appellant, duly proved by the investigating witnesses. The appreciation of evidence by the Trial Court suffers from no infirmity warranting



interference, and the conviction under Sections 392/34 IPC and 411 IPC is accordingly upheld.

13. However, having regard to the mitigating circumstances, including the period of custody already undergone by the appellant, this Court is of the considered view that the ends of justice would be met if the substantive sentence is confined to the period already undergone by the appellant.

14. Consequently, while upholding the conviction of the appellant Sajid @ Sahid for the offences under Sections 392/34 IPC and 411 IPC, the substantive sentence imposed upon him is modified to the period already undergone.

15. The appellant is, however, directed to deposit the fine amount of Rs. 500/-, as imposed under the impugned order on sentence, before the Trial Court within a period of three weeks from today, and furnish the receipt of such deposit to the IO. In default of payment of fine, the appellant shall undergo the default sentence as imposed by the Trial Court.

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

17. The bail bonds and sureties shall stand cancelled and discharged forthwith.

18. A copy of this judgment be sent to the concerned Trial Court and the Jail Superintendent, for information and necessary compliance.

MANOJ KUMAR OHRI, J

NOVEMBER 6, 2025

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