



\$~67

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

+ CRL.A. 939/2016

SHANU @ KASIM

.....Appellant

Through: Mr. Ravi Tikania, Advocate

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State with
SI Vikrant Singh, Special Cell

\$-68

+ CRL.A. 1122/2016

LAXMAN @ SONU

.....Appellant

Through: Mr. Ravi Tikania, Advocate

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State with
SI Vikrant Singh, Special Cell

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

19.12.2025

%

1. By way of the present connected appeals, the appellants seek to assail the judgment of conviction dated 28.07.2016 and the order on sentence dated 29.08.2016 passed by the learned Additional Sessions Judge-02/FTC, New Delhi District, Patiala House Courts, Delhi in Sessions Case No. 110/2013 arising out of FIR No. 24/2011 registered under Sections 395/397/411/120B/34



IPC at P.S. Special Cell.

Vide the impugned order on sentence, both the appellants were sentenced to undergo RI for a period of 5 years and pay a fine of Rs.15,000/- each, in default whereof they were directed to undergo SI for 6 months each, for the offence punishable under Section 120B IPC. They were also directed to undergo RI for a period of 7 years and pay a fine of Rs.25,000/- each, in default whereof they were directed to undergo SI for 1 year each, for the offence punishable under Section 395 IPC.

The sentences of the appellants, *Shanu @ Kasim* and *Laxman @ Sonu*, were suspended vide orders dated 15.12.2016 and 18.04.2017 respectively.

2. Pithily put, the case of the prosecution is that on 04.03.2011 at around 9:30 PM, the appellants herein along with four co-accused pursued a TATA-709 truck bearing registration no. DL-1LG-1090 driven by one *Vipin Singh*, while travelling in a TSR and on a motorcycle. The accused persons overtook the said truck, obstructed its passage, compelled it to stop, and forcibly entered the vehicle. They threatened the driver/*Vipin Singh* with a *katta* (country-made firearm) and a knife, forcibly removed him from the truck, and compelled him to enter their TSR. Thereafter, four co-accused persons including the appellant/*Shanu @ Kasim* took *Vipin Singh* in the TSR; forcibly snatched his mobile phone, driver's licence, and Rs.2,000/-; and then abandoned him in Okhla jungle. The appellant/*Laxman @ Sonu* drove the stolen truck away to a godown in Indirapuram, which had been taken on rent by one of the co-accused persons, and the looted articles were stored there. The truck was thereafter abandoned in Ghaziabad. A PCR call was received on 05.03.2011 reporting the



said incident and the information was recorded vide DD No. 30A at P.S. Chanakya Puri. Through secret information received by SI *Devender Prasad* (PW-65) regarding the assailants committing looting of trucks, the assailants were arrested.

3. The driver of the concerned truck/*Vipin Singh*, deposing as PW-1, identified both the appellants in Court. He identified the appellant/*Laxman @ Sonu* as the assailant who drove the truck from the spot and the appellant/*Shanu @ Kasir* as the one who forcibly restrained the witness in the TSR. Further, the fingerprints of the appellant/*Laxman @ Sonu* were found in the looted truck as per the Finger Print Bureau's report (Ex. PW-19/A) proved by PW-19/*Avdesh Kumar*. All key prosecution witnesses supported the prosecution case and withstood the test of cross-examination with no material contradictions being elicited to discredit the prosecution case. The Trial Court held the minor inconsistencies in the statements of *Vipin Singh* to be inconsequential, especially in light of the large number of assailants involved in the incident in question, and 8 months since the incident having elapsed at the time of his examination. The non-joining of public witnesses was not considered to be fatal to the prosecution case in the face of credible testimony corroborated by fingerprint reports. Based on a perusal of the evidence on record, this Court concurs with the findings of the Trial Court and finds no grounds to interfere with the impugned judgment. Consequently, the conviction of both appellants under Sections 120B and 395 IPC is upheld.

4. The appellant/*Shanu @ Kasim* has joined the proceedings through VC and the appellant/*Laxman @ Sonu* is present in person. Learned counsel for



both the appellants submits that they are remorseful, and that, being fully aware of the consequences, they do not wish to press their respective appeals on merits. They pray instead that they be released on the period already undergone by them in custody. The fine imposed upon the appellant/*Laxman @ Sonu* is stated to have been paid, and the same stands confirmed by the appellant's nominal roll. The appellant/*Shanu @ Kasim*, on the other hand, undertakes to deposit the requisite fine within a period of 6 weeks.

5. Learned APP for the State has handed over status reports regarding the antecedents of the appellants and the same are taken on record. The said reports reflect that both the appellants have been acquitted in three matters and have only one other conviction, which is prior in time to the conviction in the present case. Pertinently, the incident in present case relates to the year 2011.

6. The latest nominal rolls of both the appellants are on record. They reflect that they have both undergone well over half of their respective sentences, as well as maintained satisfactory conduct in jail. The appellant/*Shanu @ Kasim* has undergone nearly 6 years of incarceration, whereas the appellant/*Laxman @ Sonu* has undergone over 6 years and 3 months.

7. The law regarding release of convicts who have undergone more than half of their sentence was laid down by the Supreme Court in Sonadhar Vs. State of Chhattisgarh¹, 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

¹ 2021 SCC OnLine SC 3683



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."*

8. The appellant/*Shanu @ Kasim*, aged about 40 years, is stated to be from an economically weak background, having an old and infirm mother to take care of. The appellant/*Laxman @ Sonu*, also aged about 40 years, is stated to be married and having two sons who are about to attain maturity. It is stated that both the appellants were young when the offence in question was committed, that they have suffered through the ordeal of a protracted trial for the last 15 years, and that they have both already completed their sentences against the conviction under Section 120B IPC.

9. Having regard to the facts and law as discussed above, and in view of the aforementioned mitigating circumstances, the appellants' prayers for release on the periods of custody already undergone by them are accepted. The conviction of both the appellants under Sections 395 and 120B IPC is upheld; however, the



substantive sentences awarded to them against their conviction under Section 395 IPC are modified to the period already undergone by them. The sentences in default of payment of fine, however, are maintained.

10. While the appellant/*Laxman @ Sonu* has already deposited the fine imposed upon him by the Trial Court, the appellant/*Shanu @ Kasim* shall pay the requisite fine amount to the satisfaction of the Trial Court within a period of 6 weeks. In the event of non-payment of fine, the appellant/*Shanu @ Kasim* shall undergo the sentence in default of payment of fine as imposed by the Trial Court.

11. Both the present appeals are partly allowed in the above terms.

12. A copy of this order be communicated to the Trial Court and the concerned Jail Superintendent.

MANOJ KUMAR OHRI, J

DECEMBER 19, 2025

nb