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

+ CRL.A. 732/2016

NASEEM JAFRI

.....Appellant

Through: Ms.Gayatri Nandwani, Advocate

Mr.Habibur Rahman, Advocate (DHCLSC)

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State

+ CRL.A. 962/2016

NASEEM JAFRI

.....Appellant

Through: Mr.Habibur Rahman, Advocate

(DHCLSC)

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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28.11.2025

CRL.A. 962/2016

1. Learned counsel for the appellant submits that inadvertently the appellant has preferred two appeals against the conviction in FIR No.890/2014 registered under Sections 395/412 at P.S. Kotwali, Delhi. He prays that he may be permitted to withdraw the present appeal as the same has been filed at a later time.

2. Learned APP for the State also affirms the aforesaid fact.

3. In view of the above, the present appeal being CRL.A. 962/2016 is dismissed as withdrawn.

CRL.A. 732/2016

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 Section 395/412 IPC at P.S. Kotwali, Delhi.

2. The appellant was convicted only for Section 411 IPC. Vide order on sentence, the appellant has been directed to undergo RI for a period of 2 years and 6 months alongwith fine of Rs.25,000/- for the offence punishable under Section 411 IPC, in default thereof would further undergo SI for a period of 3 months. The benefit of Section 428 Cr.P.C. has been provided to the appellant.

Vide order dated 18.11.2016, 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, complainant *Manoj Jain* produced accused *Mohd. Ahmed* at the Police Station and reported 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 pair of sunglasses. Near shop Nos. 341-342, Dariba Kalan, at about 3:30-3:45 PM, 3-4 persons began walking alongside him. Accused *Ahmed* placed his green bag on the complainant's shoulder and another associate snatched the complainant's bag, handed it over to another accomplice, and fled. Suspecting his involvement, the complainant apprehended accused *Mohd. Ahmed*, though the bag could not be recovered. During interrogation, accused *Ahmed* disclosed that he, along with associates *Salim, Sajid, Samir, Guddu, Raju* and *Maniya*, had planned the robbery. On the day of the incident, they met at Gate No. 1, Jama Masjid, proceeded towards Dariba Kalan, and executed the robbery as



planned. Accused *Ahmed* was arrested and his green bag was seized. CCTV footage of the place of occurrence was obtained, wherein all accused persons except appellant/*Naseem Jafri* were visible. Accused *Ahmed* also disclosed the mobile numbers of three co-accused. He led the police to Saraswat Apartment, where appellant/*Naseem Jafri* was arrested, and 32 robbed gold and diamond rings were recovered at his instance.

4. In support of its case, the prosecution examined 13 witnesses. The material witnesses include the complainant, *Manoj Jain*, who was examined as PW-4. *Nirmal Kumar Jain*, President of the Dariba Jewellers Association in 2014, who had installed and maintained 32 CCTV cameras in the market, was examined as PW-5. The remaining witnesses were formal in nature and deposed to various aspects of the investigation.

5. A perusal of the record indicates that as per the testimony of police witnesses, 32 gold and diamond rings were recovered from an almirah in the house of appellant, kept in a black polythene bag. The articles were seized and sealed on the spot and were subsequently correctly identified by the complainant in TIP as part of the robbed jewellery. It is further noted that many of the recovered items bore the mark “MJ”, corresponding to the complainant’s identification mark on his jewellery, which is treated as corroborative evidence establishing that the recovered articles were indeed stolen property. Since there was no evidence to show that the appellant was present at the spot of the robbery or captured in the CCTV footage, the prosecution failed to connect him with the actual commission of the robbery. However, the recovery of robbed articles from the appellant stands duly proved and undisputed. The appellant’s plea of false implication also remained unsubstantiated, as no material was brought on record to support



this claim.

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 section 411 IPC.

6. At this stage, learned counsel for the appellant, on instructions from the appellant, submits that the appellant is remorseful and being fully aware of the consequences, does not wish to press the present appeal on merits. He accepts his guilt and prays that he be released on the period already undergone by him in custody.

7. Learned APP for the State has handed over a Status Report, which is taken on record. As per the said report, the appellant has other involvements, but they are prior in time to the present case.

8. The nominal roll of the appellant dated 18.11.2025 is on record, which reflects that the appellant has undergone about 2 years and 3 months, and his conduct in jail has 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. Having regard to the fact that the incident pertains to the year 2014, the appellant is about 71 years of age 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 of fine and the default sentence, however, is maintained. The fine shall be deposited within 2 months before the Trial Court, failing which the appellant will undergo the default sentence. The appellant shall furnish a receipt with the concerned I.O.

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

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

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

MANOJ KUMAR OHRI, J

NOVEMBER 28, 2025

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