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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.A. 990/2016

MUSTAKIN

.....Appellant

Through: Mr. Bipin Kumar Jha, Advocate.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Lalit Kumar, P.S. Maurice
Nagar.

AND

+ CRL.A. 1007/2016

SHAMSHER

.....Appellant

Through: Mr. Rajan, Mr. Kushank Mittal, Mr.
Indu Bhusan Vimal and Mr. Harjeet
Sigh Sidhu, Advocates.

versus

STATE (GOVT OF NCT OF DELHI)

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Lalit Kumar, P.S. Maurice
Nagar.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

10.10.2025

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1. The present appeals have been filed under Section 374 Cr.P.C. by the appellants assailing the judgment dated 07.09.2016 and order on sentence dated 28.09.2016 passed by ASJ-04, Tis Hazari Courts, Delhi in Sessions



Case No.27612/2016 arising out of FIR No.67/2005 registered at P.S. Maurice Nagar, Delhi under Sections 392/34 IPC.

The appellants were convicted for the offence punishable under Sections 411 IPC and each of the appellants was sentenced to undergo rigorous imprisonment for a period of 1 year alongwith fine of Rs. 5,000/-, in default whereof, he was directed to undergo simple imprisonment for 15 days. The benefit of Section 428 Cr.P.C was granted to the appellants.

The sentence of both the appellants was suspended during the pendency of the present appeal by this court vide order dated 25.10.2016.

2. In support of its case, the prosecution examined 26 witnesses. The material witnesses include the complainant, who was examined as PW-1, he deposed that he alongwith his brother(PW-2), driver Krishan(PW-4) and servant Munna Lal(PW-5), was travelling from Lajpat Rai Market in their Honda City car, carrying a bag containing Rs. 3 lakhs which included one new packet of Rs. 500/- denomination bearing serial nos. 389901 to 390000, alongwith with currency notes in the denomination of Rs. 1000/-, Rs. 500/- and Rs. 100/-. At about 8:30 P.M., when they reached near University, Shri Ram Institute, a white Esteem suddenly stopped in front of the complainant's car, compelling them to stop. About 3-4 persons surrounded their car, and one of them with the help of a *katta* broke the glass of the car and demanded the complainant's mobile phone and the bag of the complainant. Without any resistance the complainant complied, whereafter the accused removed the car key and fled from the spot in their white car. Further, the brother of the complainant was examined as PW-2, The driver of the complainant was examined as PW-4 and an employee of the complainant was examined ad PW-5, they deposed on similar lines about the



incident as to PW-1.

3. A perusal of the record indicates that the recovered currency notes, which were duly identified by the complainant in court, were found in the possession of the present appellants and accused/*Meherban*. The complainant had specifically deposed that the robbed amount included one fresh bundle of Rs.500 denomination notes bearing serial numbers 4EE389901 to 4EE390000, and significantly, he had made personal markings of the numbers '78' and '84' on two of the notes for his own business record. During investigation, a sum of Rs.45,000 was recovered from accused/*Meherban*, Rs.11,000 from appellant/*Mustakin* and Rs.12,000 from appellant/*Shamsher* was recovered, and these recovered notes were found to match the same serial numbers provided by the complainant, including the same handwritten markings which he later identified in court. Furthermore, the fingerprint report linking co-accused *Mehraj* and appellant/*Mustakin* to the recovered white Esteem car, which was used in the offence lends additional corroboration to the prosecution version. Although the appellants and co-accused were not identified by the complainant or other prosecution witnesses as direct participants in the robbery and were consequently acquitted of the charges under Sections 395, 397, and 120-B IPC, the recovery of the distinctly identifiable stolen property from their possession remains undisputed. The testimony of the complainant is cogent, consistent, and trustworthy, and finds corroboration from the depositions of PW-2, PW-4, and PW-5.

Notably, the appeal of accused/*Meharban* has been abated and disposed of vide order dated 10.10.2025.

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 411 IPC.

5. At this stage, learned counsel for the appellant/*Mustakin*, on instructions from the appellant who has joined the proceedings through V.C., prays that appellant's case be considered for the period already undergone by him. He further submits that the appellant/*Mustakin* has already deposited the fine of Rs.5,000/- vide Receipt No. 000115717 dated 29.09.2016, which is on record.

Learned counsel for the appellant/*Shamsher*, on instructions, prays that appellant's case also be considered for the period undergone. The appellant/*Shamsher* has also deposited the fine of Rs.5,000/- vide Receipt No. 000115716 dated 28.09.2016 which is on record.

6. The appellant/*Mustakin* is about 49 years of age, he is stated to be the sole breadwinner of his family, which comprises of his wife and 3 children and an old aged mother.

The appellant/*Shamsher* is about 44 years of age, he is stated to be the sole breadwinner of his family, which comprises of his wife and 4 children.

7. Learned APP for the State, on instructions, submits that the appellant/*Mustakin* is involved in two other cases i.e. FIR No. 98/2011 registered under Sections 302/397/411/120B IPC at P.S. Shakarpur and FIR No. 288/2004 registered under Sections 473/34 IPC. He further submits that the appellant/*Shamsher* is not found involved in any other case.

8. At this stage, learned Counsel for the appellant/*Mustakin* submits that conviction of appellant in FIR No. 98/2011 has already been set aside by the Division Bench of this Court vide judgment dated 02.11.2020 passed in



CRLA. 419/2018. He has handed over copy of the judgment which is taken on record. He further submits that insofar as FIR No. 288/2004 is concerned, appellant has already served the entire sentence.

9. The appellants have been facing trial since the year 2016. As per the nominal roll of the appellant/*Mustakin* dated 09.10.2025, which has been handed over and taken on record, he has undergone about 9 months, it is further noted that both the other cases reflected against the said appellant pertains to a period prior in point of time. As per the nominal roll of the appellant/*Shamsher* dated 09.10.2025, 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 sentences imposed upon the appellants are modified to the period already undergone by them.

10. The personal bond furnished by the appellants stands cancelled, and their sureties are discharged.

11. The present appeals are partly allowed and disposed of in the above terms.

12. 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 10, 2025

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