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

+ **CRL.A. 951/2016 & CRL.M.(BAIL) 167/2025**

SIKANDER

.....Appellant

Through: Mr. Chetan Bhardwaj, Mr.
Priyal Bhardwaj, Mr.
Dhanush Kumar and Mr.
Pulkit Tripathi, Advs.

versus

STATE

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Satyender, PS SP Badli.

+ **CRL.A. 1157/2016**

IRSHAD ALI

.....Appellant

Through: Mr. Chetan Bhardwaj, Mr.
Priyal Bhardwaj, Mr.
Dhanush Kumar and Mr.
Pulkit Tripathi, Advs.

versus

THE STATE

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Satyender, PS SP Badli.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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24.03.2025

1. The present appeals are filed challenging the judgment on conviction dated 24.08.2016 (hereafter '**impugned judgment**') and order on sentence dated 30.08.2016 (hereafter '**impugned order on sentence**'), passed by the learned Trial Court, in Sessions Case No. 58338/16 arising out of FIR No. 350/09, registered at Police Station S.P. Badli.



2. The learned Trial Court by the impugned judgment, has convicted the accused persons, including the present appellants, for the offence under Section 395 of the Indian Penal Code, 1860 ('IPC'). Co-convict Ashok was also convicted for the offence under Section 397 of the IPC.
3. By the impugned order on sentence, the learned Trial Court has sentenced the appellants to undergo rigorous imprisonment for a period of 14 years and to pay a fine of ₹10,000/- each for the offence under Section 395 of the IPC, and in default of payment of fine, to further undergo simple imprisonment for a period for one year. Co-convict Ashok in addition was further sentenced to undergo rigorous imprisonment for a period of 10 years and to pay a fine of ₹10,000/- for the offence under Section 397 of the IPC, and in default of payment of fine, to further undergo simple imprisonment for a period for one year.
4. The brief facts of the case are that on the intervening night of 11.12.2009 and 12.12.2009, the accused persons, including the appellants, committed dacoity and looted a truck carrying 230 bags of Betel nuts (supari). It is further alleged that the accused persons gave beatings to the victims, tied them up and forced them to eat some tablets due to which they lost consciousness.
5. The learned counsel for the appellants, at the outset, submits that the appellants do not wish to press the challenge to the impugned judgment and will be satisfied if their sentence is commuted to the period already undergone by them.
6. He submits the appellants were convicted almost seven years after the alleged incident in the year 2016 and almost nine years have elapsed since then as well.
7. He submits that the appellants have already undergone a



fair portion of the sentence in custody and he has instructions to confine his arguments to the question of sentence.

8. He submits that the subject FIR was registered in the year 2009, when the appellants were young men of 25-28 years of age.

9. He submits that the offence for which the appellants have been convicted does not prescribe any minimum sentence.

10. He submits that the appellants are happily married with children to take care of.

11. He submits that a lenient view may be taken by considering the fact that the appellants have already undergone more than seven years and ten years in custody respectively, including remission, out of fourteen years. He submits that the appellants belong to the poor strata of society and they have minor children to take care of as well. He submits that no purpose would be served by subjecting the appellants to undergo the remaining period in custody.

12. The learned Additional Public Prosecutor for the State submits that considering the mitigating circumstances, the State has no objection if the sentence of the appellants is commuted to the period already undergone.

13. I have heard the counsel and perused the record.

14. The Hon'ble Apex Court, in the case of **Ramdas v. State of Madhya Pradesh : (2009) 4 SCC 57**, in a case involving conviction for the offence under Section 324 of the IPC, had commuted the sentence of 3 years to the period already undergone, that is, fifteen months, by factoring in that the appellant therein had been prosecuting the matter before various Courts for over fourteen years.

15. Reliance is also placed on the case of **Munna Gupta v.**



The State of Chhattisgarh Criminal Appeal No. 717/2011,

where in a case involving conviction under Section 395 of the IPC, the Hon'ble Apex Court had commuted the sentence of ten years to the period already undergone by the appellant, that is, 7 years, by factoring in the time already undergone and that there is no minimum sentence for the offence under Section 395 of the IPC.

16. In the present case as well, it is relevant to note that the incident dates back to the year 2009 and the appellants have been pursuing the matter for over sixteen years. As pointed out, the appellants at the time of the incident were young individuals.

17. It is stated that the appellants belong to the poor strata of society. Appellant Irshad is the sole bread earner of his family which includes his minor children.

18. It is further stated that the appellant Sikander has the responsibility of his wife and children, including his minor daughter who is suffering from uncontrolled diabetes. Appellant Sikander's minor daughter needs to be regularly monitored due to which his wife has to time and again leave her job. Appellant Sikander has been granted bail on multiple occasions due to his daughter's medical condition as well.

19. The appellants have evidently already undergone a substantial portion of their sentence. It is also relevant to note that the appellants have been granted interim suspension of sentence on a number of occasions and they did not misuse the liberty. The appellants since their involvement in the present case have not been involved in any other cases. The appellants are married and have a family including minor children to take care of. As noted above, they have also been pursuing the matter for over sixteen years and undergone a substantial portion of their



custody.

20. At this juncture, this Court deems it apposite to note that the reformatory purpose of sentencing as well. While the said aspect was also considered by the learned Trial Court while sentencing the appellants, in the opinion of this Court, interests of justice would be met if the sentence imposed upon the appellants is reduced to the period already undergone by them.

21. In view of the above, without interfering in the conviction of the appellants, their respective sentence of fourteen years is reduced to the imprisonment already suffered by the appellants.

22. It is submitted that the fine amount is yet to be paid by the appellants.

23. The appellants undertake to pay the amount of fine within a period of two weeks from date.

24. Let the proof of deposit of the fine amount be submitted with the concerned SHO.

25. The present appeals are disposed of in the aforesaid terms. Pending application also stands disposed of.

26. The appellants, if in custody, are directed to be released forthwith. The bail bonds and sureties furnished by the appellants shall stand discharged.

27. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

MARCH 24, 2025

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