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

+ **CRL.A. 760/2017**

ASHA

.....Appellant

Through: Ms. Tanya Agarwal, Mr. Kamlesh Kumar, and Mr. Gaurav Kalra, Advocates, with Appellant in person.

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahlot, APP for the State

+ **CRL.A. 765/2017**

MANJU @ MANI

.....Appellant

Through: Mr. Gaurav Gupta, Mr. Rupel Gupta, and Ms. Antra Mishra, Advocates, with Appellant in person.

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahlot, APP for the State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **22.07.2025**

1. The present appeals have been instituted under Section 374 Cr.P.C. against the impugned judgment of conviction dated 09.06.2017 and order on sentence dated 04.07.2017 passed by the Ld. Addl. Sessions Judge, Fast Track Court, North-West District, Rohini, Delhi in the case arising out of FIR No. 05/2013 registered under Sections 328/379/392/394/411/120-B/34 IPC at P.S. Rithala Metro.

Vide the aforesaid judgment and order on sentence, the



appellant/*Asha* was convicted for the offence punishable under Section 411 IPC and the appellant/*Manju* was convicted for the offence punishable under Section 379 IPC. Appellant/*Asha* was sentenced to undergo simple imprisonment for a period of one year and to a fine of Rs. 10,000/-. In default of payment of fine, she was directed to undergo simple imprisonment for two months. Appellant/*Manju* was sentenced to undergo simple imprisonment for a period of two years and to a fine of Rs. 10,000/-. In default of payment of fine, she was directed to undergo simple imprisonment for two months. Benefit of Section 428 Cr.P.C. was given to both the appellants.

2. Pithily put, the prosecution's case is that appellant/*Manju* made the complainant's acquaintance during their metro journey and caused her to temporarily lose her senses by administering an intoxicating substance. When the complainant regained awareness a few hours later, she realized that her jewellery, mobile phone, and other valuables were missing. Following the registration of an FIR, an investigation was conducted, which led to the arrest of six individuals, including the two appellants herein. The prosecution asserts that appellant/*Manju*, along with other co-accused, drugged and robbed the complainant, and that the complainant's stolen mobile phone came to the share of appellant/*Asha*. The prosecution examined thirteen witnesses in support of its case and asserted that a clear conspiracy was established, which stands proved in view of the judicial TIP of the complainant's stolen items.

3. As regards appellant/*Asha*, the complainant's mobile phone, which was under surveillance, was found to be in use by her during the investigation. PW13 SI *Nand Lal* deposed that on 04.02.2013,



appellant/*Asha* was apprehended after the complainant's stolen mobile number was traced to her. PW10 WHC *Kamlesh*, who was present with SI *Nand Lal* at the time, corroborated this testimony, confirming that appellant/*Asha* was found in possession of the stolen mobile phone. Neither appellant/*Asha* nor her husband, *Ashok Kumar* (accused no. 3 before the Trial Court), disputed the possession of the mobile phone but claimed that it had been left behind by a passenger in *Ashok Kumar*'s autorickshaw, and was innocuously handed over to appellant/*Asha* by him. Further, during the investigation, *Ashok Kumar* led the police to his residence, where a gold *kara* belonging to the complainant, along with some loose strips of Ativan 2mg, was recovered. These items were seized and identified by the complainant during the judicial TIP. The testimony of PW5 ASI *Rajesh Kumar*, regarding the recovery of the stolen *kara* from *Ashok Kumar*, remained uncontroverted. The Trial Court noted that, even if the mobile phone had been left in *Ashok Kumar*'s TSR, appellant/*Asha* or her husband had a duty to inform the police immediately, which they failed to do.

4. As regards appellant/*Manju*, the complainant testified that she first encountered appellant/*Manju* when the complainant stopped near the Chandni Chowk metro station to bargain for shawls with a hawker on the footpath. Appellant/*Manju* approached her from behind and initiated a conversation. Later, appellant/*Manju* assisted the complainant in using the escalator at the metro station and boarded the same train. During the metro journey, appellant/*Manju* allegedly made the complainant inhale an intoxicating substance, after which the complainant lost her senses. It was at this time that appellant/*Manju* is said to have taken advantage of the complainant's state and stolen her jewellery, mobile phone, and other



valuables. The complainant deposed that all the stolen items were taken by appellant/*Manju*, and she proved her statement as Ex. PW3/A. She further testified that she had gone to P.S. Rithala Metro on 05.03.2013, where she identified appellant/*Manju* correctly. During the trial, the complainant again correctly identified appellant/*Manju*. In her statement recorded under Section 313 CrPC, the appellant/*Manju* denied the allegations, claiming that she had been falsely implicated. She further stated that she had never met the complainant and was not acquainted with any of the co-accused, except for accused no. 4, *Devender Pal Singh* (her relative). The Trial Court concluded that the complainant had withstood the test of cross-examination and correctly identified appellant/*Manju*. The Trial Court noted that there was no apparent reason for the complainant to falsely implicate appellant/*Manju*, especially given that there was no enmity between the two.

5. This Court, based on the material produced and keeping in mind the facts and circumstances, concurs with the findings of the Trial Court. The testimony of complainant is consistent on the aspect of identity and the role played by the appellant/*Manju*. The stolen articles, on being recovered from possession of the appellants, were duly identified in trial. After going through the impugned judgment, this Court is of the considered view that no grounds to interfere with the same are made out. Consequently, the conviction of appellant/*Asha* is upheld qua the offence under Section 411 IPC; and the conviction of appellant/*Manju* is upheld qua the offence under Section 379 IPC.

6. At this stage, learned counsels for the respective appellants, on instructions from the respective appellants who are both present in person, state that the appellants do not challenge their conviction under the aforesaid



sections, and pray instead that the sentences awarded to them be modified to the period already undergone by them.

7. It is stated that appellant/*Asha* is an illiterate elderly woman belonging to a poor strata of society. It is further stated that she has three children: two daughters, who are married, and one 21-year-old son, who remains unmarried. It is also stated that her husband is deceased. The offence in question pertains to the year 2013. The latest nominal roll on record, dated 07.02.2025, indicates that appellant/*Asha* has served 1 month and 15 days of incarceration, with satisfactory jail conduct. The learned APP states on instructions that appellant/*Asha* is not involved in any other case.

8. It is stated that appellant/*Manju* is a housewife and the sole caretaker of her two minor children: a 13-year-old daughter and a 5-year-old son. It is further stated that her husband is employed. The offence in question pertains to the year 2013. The latest nominal roll on record, dated 07.02.2025, indicates that appellant/*Manju* has served 10 months and 8 days of incarceration, with satisfactory jail conduct. The learned APP, on instructions, states that appellant/*Manju* is not involved in any other case.

9. Keeping in view the aforesaid, the sentences of both the appellants are modified to the period already undergone. Their respective bail bonds are cancelled and their respective sureties stand discharged.

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

11. Both the present appeals are disposed of in the above terms.

MANOJ KUMAR OHRI, J

JULY 22, 2025/nb