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

+ CRL.A. 1063/2017

VIPIN

.....Appellant

Through: Mr. Ankur Sood, Legal Aid Counsel

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

07.11.2025

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1. The present appeal has been preferred under Section 374 Cr.P.C. read with Section 482 Cr.P.C. assailing the judgment of conviction dated 10.07.2017 and the order on sentence dated 17.07.2017, passed by the Ld. ASJ-II (North-West), Rohini Courts, Delhi in SC No. 52543/2016, arising out of FIR No. 1191/2014, registered at P.S. Subhash Place, for the offences punishable under Sections 392/506 IPC.

2. Vide the impugned order, the appellant was sentenced to undergo Rigorous Imprisonment for 04 years and a fine of Rs. 20,000/-, in default to undergo Simple Imprisonment for one month for the offence punishable under Section 392 IPC, and Rigorous Imprisonment for 02 years and a fine of Rs. 5,000/-, in default to undergo Simple Imprisonment for 15 days for the offence punishable under Section 506 IPC. Both the sentences were directed to run concurrently. The benefit of 428 Cr.P.C. was extended to him.



3. The appellant was released on bail pursuant to the order of this Court dated 21.11.2017 and was released on bail on 25.11.2017.
4. Briefly stated, the case of the prosecution was that on 21.12.2014, the complainant Mohd. Wasim, who was a partner in “Night Fever Restaurant and Bar” at Netaji Subhash Place, Pitampura, was returning to his vehicle parked in the basement when he was accosted by two persons. One of them, identified as the appellant Vipin, allegedly robbed him of Rs. 75,000/- from his pocket, while his associate, who could not be apprehended, threatened him with a knife and a revolver-like object. It was alleged that the complainant was forced to drive his vehicle for about an hour at knife point, after which both assailants fled.
5. During trial, the prosecution examined ten witnesses, including the complainant Mohd. Wasim (PW-6). The complainant supported the prosecution version, identifying the appellant as one of the persons who robbed him. His co-accused was attributed the role of threatening him with a weapon. PW-8 Manoj Kumar, who was working as a security officer at a night club near Fun Cinema, deposed that soon after the incident, the complainant approached him in a distressed state and used his mobile phone to make a call at 100. The remaining witnesses were formal in nature who deposed regarding formal aspects of the investigation.
6. In his examination under Section 313 Cr.P.C., the appellant denied all incriminating evidence and claimed false implication, alleging prior enmity with the complainant. No independent defence evidence was led.
7. Upon appreciation of the evidence, the Trial Court observed that the testimony of the complainant (PW-6 Mohd. Wasim) was consistent and reliable. The Court held that his ocular account of the robbery and threat,



duly corroborated by the contemporaneous DD entry, FIR, *rukka*, site plan and arrest memos, was sufficient to prove the prosecution case beyond reasonable doubt. The Court noted that the complainant had correctly identified the appellant Vipin in Court as one of the two assailants who robbed him. Relying on settled law that the conviction can rest on the sole testimony of a credible witness, the Court concluded that the essential ingredients of robbery and criminal intimidation were fully established. However, since the use of the knife was attributed to the co-accused (Deepak, declared PO), and not Vipin himself, the ingredients of Section 397 IPC were held not proved against him. Consequently, the appellant was convicted only for offences under Sections 392 and 506 IPC.

8. The learned counsel for the appellant submits that the appellant does not wish to press the appeal on merits and confines his prayer to the modification sentence to the period of incarceration already undergone. He further submits that the appellant has no other involvements. Lastly, he submits that the appellant was about 25 years of age at the time of conviction, he is about 34 years old now, has a wife, son and an old age mother to look after, he is employed in the private sector as a housekeeping staff member.

9. The learned APP for the State has submitted that the appellant has one other involvement.

10. As per the nominal roll on record, the appellant has undergone a total period of about 2 years and 10 months of incarceration. Further it records that he has not paid the fine amount.

11. The law with regard to 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 v. State of Chhattisgarh decided on 06.10.2021, in **SLP (CRL)No. 529/2021** the relevant portion of the same is extracted hereinunder:

'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 endeavour 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.

Our aforesaid additional directions are based on a premise that at times if a convict has actually done of what he is accused of and he is remorseful, he may be willing to accept his acts and suffer a lesser sentence. We make it clear that the objective is not to compel or extract acceptance from such convicts depriving of the right of appeal.'

12. This Court has carefully perused the record and the judgment of the learned Trial Court. The conviction of the appellant rests upon the cogent and corroborated testimony of the complainant Mohd. Wasim (PW-6), duly supported by the documentary evidence, as well as the investigation carried



out by ASI Umed Singh (PW-10). The findings of the Trial Court suffer from no infirmity warranting interference and are accordingly affirmed.

13. Having regard to the mitigating circumstances, including the young age of the appellant at the time of conviction, his family background, and the total period of incarceration, this Court is of the considered view that the ends of justice would be adequately served if the sentence imposed upon the appellant is confined to the period already undergone.

14. Consequently, while upholding the conviction of the appellant for offences under Sections 392 and 506 IPC, the substantive sentence awarded to him is modified to the period already undergone.

15. The appellant is, however, directed to deposit the total fine amount of Rs. 25,000/- before the concerned Trial Court within a period of six weeks from today and furnish proof of such deposit to the IO concerned. In default of payment of fine, the appellant shall undergo the default sentence as directed by the Trial Court.

16. The appeal is accordingly partly allowed and disposed of to the extent indicated above.

17. Pending applications, if any, stand disposed of. The bail bonds furnished by the appellant shall stand cancelled and the sureties discharged upon deposit of fine.

18. Let a copy of this judgment be transmitted to the concerned Trial Court and the concerned Jail Superintendent for information and necessary compliance.

MANOJ KUMAR OHRI, J

NOVEMBER 7, 2025/dh