



\$~45

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 1168/2017**

AKIL

.....Appellant

Through: Appearance not given

versus

STATE

.....Respondent

Through: Mr. Pradeep Gehelot, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

%

16.10.2025

1. The present appeal has been filed under Section 374 Cr.P.C. by the appellant assailing the judgment dated 18.08.2017 and order on sentence dated 25.08.2017 passed by ASJ, FTC, E-Court, Shahdara, Karkardooma Court, Delhi in Sessions Case No. 41/2014 arising out of FIR No.167/2013 registered at P.S. Jafrabad, Delhi under Sections 394/34 IPC.

Vide the order on sentence the appellant was directed to undergo RI for a period of 5 years alongwith fine of Rs.2,500/- for the offence punishable u/s 394/34 IPC, in default thereof to undergo SI for a period of 3 months. The benefit of Section 428 Cr.P.C. was granted to the appellant.

The sentence of the appellant was suspended during the pendency of the present appeal by this Court vide order dated 20.12.2017.

2. In support of its case, the prosecution examined 7 witnesses. The complainant was examined as PW-4, he deposed that on 11.06.2013 at about 11:00 PM, while returning home to *Chauhan Bangar* and upon reaching near *Shiv Mandir Gali*, he found both accused already present there. The



accused caught hold of him, robbed him of Rs.700 and his Tata mobile phone, and stabbed him on the left side of his abdomen with a knife. On raising an alarm, his brother *Israr Ahmad*(PW-1) and some passersby arrived at the spot, whereupon both accused attempted to flee. Co-accused-*Salman* was apprehended by his brother with the help of the public, while appellant managed to escape. The complainant made a call to the police at 100 number from a passerby's phone. Upon arrival, the police took custody of co-accused-*Salman*, who disclosed the address of the appellant. Pursuant to this disclosure, the police apprehended appellant and, upon his search, recovered the complainant's Tata Docomo mobile phone from the appellant's pant.

3. A perusal of the record indicates that the stolen mobile phone of the complainant was recovered from the appellant's possession soon after the incident, which was duly identified by the complainant and supported by the original purchase bill. The testimony of the injured/complainant (PW-4) is cogent, credible, and inspires confidence. Both, PW-1 and PW-4 have correctly identified the appellant in court. The MLC of the complainant/injured records that he sustained contused lacerated wound on the left side of abdomen, which corroborates the version of the complainant's testimony. Although PW-1, *Israr Ahmad*, the brother of the complainant, initially created some doubt regarding which of the two accused was apprehended on the spot, otherwise he supports the prosecution's case with respect to the occurrence of the incident, the presence of both accused, and the robbery. Further, nothing was brought on record to suggest false implication. Consequently, the conviction of the appellant is upheld qua the offence under section 394/34 IPC.



4. At this stage, learned counsel appearing for the appellant submits, that the appellant, who is present in Court and has handed over his gate pass, does not wish to press the present appeal on merits and prays that he be released for the period already undergone by him. Reliance is further placed on the following extract of decision by Supreme Court in Sonadhar Vs. State of Chhattisgarh, reported as **2021 SCC OnLine SC 3682**:

“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.”

5. Learned APP for the State has handed over the status report, which is taken on record, submits that the appellant has three prior involvements. He has already served sentences in two of these cases, while the third case, arising out of FIR No. 320/2009 registered under Sections 24, 54, and 59 of the Arms Act, has been closed. All these antecedents pertain to incidents that occurred prior to the present offence.



6. The appellant has been facing trial since the year 2013. As per the nominal roll, dated 20.08.2025, he has undergone about 2 years and 8 months and his conduct in jail has been reported to be satisfactory.

Keeping in view 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 however, shall remain as it is. The appellant shall pay the fine imposed upon him within a period of 4 weeks before the Trial Court, failing which he will undergo the default sentence. The receipt be furnished with the I.O.

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

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

9. 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 16, 2025/rd