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

+ CRL.A. 1242/2018

MOHD. SHAHID

.....Appellant

Through: Mr. Gautam Khazanchi, Advocate
(DHCLSC) with Ms. Adity Kukreja,
Advocate.

versus

STATE

.....Respondent

Through: Ms. Shubhi Gupta, APP for State
with Ms. Yusra, Advocate SI Sandeep
PS Narela, Delhi (M:839894096).

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

22.12.2025

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1. By way of present appeal, the appellant seeks to assail the judgement of conviction dated 07.09.2018 and order on sentence dated 12.09.2018 passed by ASJ-04 (North), Rohini Courts, New Delhi, in SC no. 197/2017 arising out of FIR no. 15/2017 registered under Sections 392/397/34 IPC at P.S. Narela, Delhi.

2. Vide the impugned order on sentence, the appellant was sentenced to undergo RI for a period of 3 years alongwith fine of Rs.3,000/- in default thereof to undergo further SI for a period of 45 days for the offence punishable under Section 392/34 IPC. The benefit of Section 428 Cr.P.C. was granted to the appellant.

The sentences of the appellant was suspended during pendency of the present appeal by this Court vide order dated 14.01.2019.

3. Briefly put, the case of the prosecution is that on 03.01.2017 at about



9:20 PM, the complainant was driving his car when it developed a mechanical fault near A-5 Chowk red light, Sector-5, Main Road, Narela, due to which he alighted from the vehicle to check the same. In the meantime, two boys accosted him; one caught hold of him and pointed a knife at his neck, while the other removed his Micromax X-802 black coloured mobile phone with double SIM from his possession. On the arrival of police, both the accused attempted to flee but were chased and apprehended by the PCR staff. Upon search, the robbed mobile phone was recovered from one of the accused. Subsequently, the local police also reached the spot and both accused along with the recovered mobile phone were handed over to them. During formal search, a knife was recovered from the back pocket of the accused of short height, who disclosed his name as *Mohd. Nasim*. The name of the other accused, from whose possession the robbed mobile phone was recovered, was disclosed as *Mohd. Shahid*. On the basis of the statement of the complainant, the case was registered.

4. In support of its case, the prosecution examined 8 witnesses, the material witness, *Sumer Singh*, being the complainant, who was examined as PW-1. ASI Rajesh Kumar, the IO, was examined as PW-8. The rest of the witnesses were formal in nature and deposed as to various aspects of the investigation.

The appellant was examined under Section 313 Cr.P.C., wherein he denied all incriminating circumstances and claimed false implication.

5. A perusal of the record indicates that the testimony of the complainant (PW-1) is cogent, credible and inspires confidence. PW-1 has given a clear and consistent account of the incident. PW-1 correctly identified the appellant in Court. The version of PW-1 stands duly corroborated by the



testimonies of the PCR officials (PW-3 and PW-4), who have consistently deposed that on the complainant's pointing out, appellant was chased and apprehended immediately after the incident. The recovery of the robbed mobile phone from the possession of the appellant during his formal search, soon after the occurrence, further lends assurance to the prosecution case. The ownership of the mobile phone is duly established through the Customer Engagement Form (CEF) records. The defence plea of false implication has remained unsubstantiated.

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 appellant is upheld qua the offence under Section 392/34 IPC.

6. Learned counsel appearing for the appellant, on instructions from the appellant, who has been produced from Central Jail, Ghaziabad, U.P. through video conferencing by Ms. Shivani Yadav, Deputy Jailer, submits that on being fully aware of the consequences, does not wish to press the present appeal on merits. It is accordingly prayed that the appellant be released on the period already undergone by him in custody. It is further submitted that all the appellant has undergone more than half the sentence and the fine imposed upon him has been deposited as per custody warrant.

7. Learned APP for the State, has handed over status report, which is taken on record. As per which the appellant is involved in one other case, in which he is currently in Judicial Custody in FIR No.613/2024 registered under Sections 8/20 NDPS Act at P.S. Tronica City.

8. The nominal roll of the appellant on record reflects that the appellant has undergone about 2 years and 3 months and his conduct in jail has been



noted to be satisfactory.

9. The law regarding 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 Vs. State of Chhattisgarh, reported as **2021 SCC OnLine SC 3683**, and the relevant portion of the same is extracted hereinunder:

““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.”

10. The appellant is aged about 31 years old, is the sole breadwinner of his family, and bears the responsibility of his aged sick mother and the matter has been pending since 2017.

11. Keeping in view of the facts and circumstances noted hereinabove, the fine being paid as well as the decision in Sonadhar (Supra), the substantive sentence of the appellant is hereby modified to the period already undergone by them.

12. The personal bond furnished by the appellant stands cancelled and the



sureties are discharged.

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

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

MANOJ KUMAR OHRI, J

DECEMBER 22, 2025/rd