

Sheikh Azad Vs. State

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Court : Delhi

Decided On : Feb-10-2014

Judge : Indermeet Kaur

Appellant : Sheikh Azad

Respondent : State

Judgement :

* % + IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Judgment:10.02.2014. CRL.REV.P. 640/2013 SHEIKH AZAD Through versus Petitioner Mr. R.K. Bachhan, Adv. STATE Through Respondent Mr. Varun Goswami, APP CORAM: HON'BLE MS. JUSTICE INDERMEET KAUR INDERMEET KAUR, J.

(Oral) 1 The petitioner is aggrieved by the impugned judgment dated 19.10.2013 which, in appeal, has endorsed the finding of the learned MM dated 22.07.2013 and 24.07.2013 vide which the petitioner had been convicted under Section 448 of the IPC and had been sentenced to undergo RI for a period of 6 months and to pay a fine of Rs.1,000/- and in default of payment of fine to undergo SI for 15 days. The impugned judgment had dismissed the appeal but had modified the sentence to the extent that the RI for 6 months under Section 448 of the IPC had been modified to SI for 6 months. The rest of the sentence remained unaltered. 2 The nominal roll of the petitioner has been summoned. The nominal as on 04.02.2014 reflects that out of total period of 6 months awarded to the petitioner,

he has already undergone imprisonment of 3 months and 23 days; he has also earned remission of 19 days. As on date, the sentence already undergone by the petitioner would be approximately 4- months. 3 Learned counsel for the petitioner under instructions states that keeping in view the fact that the petitioner has already suffered incarceration for almost 80% of the sentence which has been awarded to him and fine also having been paid, he is not pressing the petition on merits but he seeks leniency in the sentence. It is pointed out that the petitioner is young in years; he has a family to support; there was no evidence with the prosecution to really nail the petitioner; attention has been drawn to the statement of Gurmeet Kaur (PW-2) in whose house the petitioner had allegedly gone to commit theft; submission being that the petitioner has been acquitted of the charge under Section 380 as also under Section 454 of the IPC as no evidence was forthcoming; further submission being that even as per the version of PW-2, the petitioner had not entered the house of the victim. 4 The offence is of the year March, 2010. It was in the afternoon at 02:00 pm. The petitioner has no other criminal antecedents. His nominal roll suggests that his conduct in the jail has all along been satisfactory; there is a special remark on his performance which states that he is a good inmate and nothing adverse has been reported against him regarding involvement in any illegal or anti-human activities. 5 In this background, keeping in view the age of the petitioner who is about 24 years and he being a first time offender, period of sentence already undergone by him is the sentence imposed upon him. Thus while maintaining the conviction the petitioner is accordingly sentenced to be released on the period undergone. He be released forthwith if not required in any other case. A copy of this order be sent to the Jail Superintendent for information and necessary compliance. 6 Petition disposed off. INDERMEET KAUR, J FEBRUARY10 2014 A

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