

M.Narsimhan Vs. State

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Court : Delhi

Decided On : Feb-24-2014

Judge : S. P. Garg

Appellant : M.Narsimhan

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI DECIDED ON : February 24, 2014 + CRL.A.851/2012 M.NARSIMHAN Appellant Through : Mr.J.S.Kushwaha, Advocate with the appellant produced in judicial custody. versus STATE Respondent Through : Mr.M.N.Dudeja, APP for the State. SI Pramod Kumar, PS Subhash Place. CORAM: MR. JUSTICE S.P.GARG S.P.GARG, J.

(ORAL) 1. With the consent of the parties, the matter is taken up for final disposal today itself.

2. M.Narsimhan (the appellant) is aggrieved by the judgment dated 22.11.2010 in Sessions Case No.1178/2009 arising out of FIR No.467/2009 by which he was convicted for committing offence under Section 392/34 IPC. By an order on sentence dated 27.11.2010, he was awarded RI for five years with fine `10,000/-. Allegations against the appellant were that on 31.08.2009 at about 03.40 p.m. at Inner Ring Road near F-Block Bus Stand, Shakur Pur, Delhi, he and his associate

robbed Ramu Gupta (complainant) and deprived him of his purse containing `9,500/- at knife point. Perry Sawmi, appellants associate who used knife was apprehended at the spot. The appellant, however, succeeded to flee the spot with the robbed cash. He was subsequently arrested in this case. The prosecution examined five witnesses to establish his guilt. In 313, statement, he denied his complicity in the crime and alleged false implication. The trial resulted in his conviction under Section 392 IPC.

3. During the pendency of appeal, the appellant was enlarged on bail and substantive sentence was suspended vide order dated 01.11.2012 on his furnishing personal bond in the sum of `20,000/- with one surety in the like amount. By an order dated 21.11.2013, the surety amount was reduced to `5,000/- . However, the appellant was unable to furnish the reduced surety amount due to poverty. Today the appellant appeared in person pursuant to the issuance of production warrant. On instructions, appellants counsel stated at Bar that the appellant has opted to give up the challenge to the findings on conviction recorded under Section 392 IPC. He, however, prayed to modify the sentence order as the appellant has undergone the substantial period of substantive sentence awarded to him. He is unable to pay fine `10,000/- due to poor economic condition. Learned APP has no objection to this.

4. Since the appellant has accepted the findings of the trial court on conviction voluntarily and has opted not to pursue the appeal on this aspect, in view of the overwhelming evidence in the statement of the complainant whereby he was identified in the court, his conviction under Section 392/34 IPC is affirmed. Nominal roll dated 27.06.2012 reveals that he was under detention for the last two years, nine months and twenty four days besides remission for two months and five days as on 27.06.2012. The period has since increased to more than four and a half years. He is not a previous convict and is not involved in any criminal case. Considering his poor condition whereby he was unable to furnish the required surety amount in the sum of `5,000/- and the fact that he has served substantial period of substantive sentence, sentence order is modified and the period already undergone by him in this case is taken as substantive sentence. Other terms of the sentence order are left undisturbed except that the default sentence will be SI

for 15 days for non-payment of fine amount of `10,000/-.

5. The appeal stands disposed of in the above terms. Trial Court record along with a copy of this order be sent back forthwith. A copy of the order be sent to Jail Superintendent, Tihar Jail for intimation. (S.P.GARG) JUDGE February 24, 2014
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