

**Brahm Prakash Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/696710](http://sooperkanoon.com/696710)

**Court :** Delhi

**Decided On :** May-13-2004

**Reported in :** 112(2004)DLT812

**Judge :** R.S. Sodhi, J.

**Acts :** [Indian Penal Code \(IPC\), 1860](#) - Sections 356 and 379

**Appeal No. :** Crl. Rev. P. 87 of 2004

**Appellant :** Brahm Prakash

**Respondent :** State

**Advocate for Def. :** V.K. Malik, Adv.

**Advocate for Pet/Ap. :** Sumeet Verma, Adv

**Judgement :**

**R.S. Sodhi, J.**

1. This revision petition is directed against the judgment and order dated 30.7.2003 of the learned Additional Sessions Judge in Crl. A. No. 28/ 2002 and Crl. A. 31/2002 arising out of the order of the learned ACMM, whereby the learned ACMM held the petitioner and the co-accused guilty under Sections 384/170 and 471, IPC and further vide separate order sentenced the petitioner and the co-

accused to undergo RI for two years each.

The Additional Sessions Judge vide its aforesaid order convicted the petitioner under Section 356 read with Section 379, IPC and acquitted him of charges under Sections 170 and 471, IPC and sentenced the petitioner to undergo RI for 1 1/2 years.

2. With the assistance of the learned Counsel for the petitioner and learned Counsel for the State, I have gone through the record of the case as also the depositions and the judgment under challenge. Learned Counsel states that he is not in a position to challenge the order of conviction. I, therefore, confirm the order of conviction. However, on the question of sentence, it is argued by the learned Counsel that the petitioner has already undergone major portion of his sentence and the remaining unexpired portion of sentence of imprisonment as per the nominal roll is only 1 month and 12 days. The petitioner's conduct has been good in jail and there is no adverse entry against him during his incarceration. He submits that the occurrence is of 2002 and the petitioner has already suffered the ordeal of trial for about two years. He further submits that the petitioner is also not a previous convict and that no useful purpose would be served in requiring him to undergo the remaining portion of his sentence at this belated stage. Learned Counsel for the State has no objection if the sentence of imprisonment of the petitioner is reduced to that already undergone.

3. Having heard learned Counsel for the parties and in view of what has been stated by learned Counsel for the State, I am of the view that the ends of justice would be met if the sentence of imprisonment of the petitioner is reduced to that already undergone. I order accordingly.

4. With this modification, Crl. Rev. P. 87/2004 is disposed of. The petitioner is in judicial custody. He shall be set at liberty forthwith, if not wanted in any other case. This order be communicated to the jail authorities.