

Hira Lal @ Vicky Vs. State

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SooperKanoon Citation : sooperkanoon.com/706426

Court : Delhi

Decided On : Sep-06-2002

Reported in : 2003CriLJ1009; 101(2002)DLT153

Judge : J.D. Kapoor, J.

Acts : Indian Penal Code (IPC) - Sections 392; Code of Criminal Procedure (CrPC) - Sections 360

Appeal No. : Crl. A. 253/1999

Appellant : Hira Lal @ Vicky

Respondent : State

Advocate for Def. : Nemo

Advocate for Pet/Ap. : R.K. Saini,; N.R. Sharma and; Hemant Arya, Advs

Disposition : Appeal dismissed

Judgement :

J.D. Kapoor, J.

1. The appeal is directed against the judgment dated 15.4.1999 wherein the appellant was convicted for the offence punishable under Section 392 IPC and the order of sentence dated 20.4.1999 whereby he was sentenced to undergo RI for

four years and to pay fine of Rs. 500/- and in default to undergo RI for four months.

2. Mr. R.K. Saini, learned counsel for the appellant concedes so far as conviction is concerned but has urged for extending the benefit of probation to the appellant by invoking provisions of Section 360 Cr.P.C. Admittedly the appellant has remained in jail for almost two years. He was 18 years of age at the time of commission of offence. He is also a first convict. Admittedly he had neither wielded the weapon nor robbed off the victim. The concept of releasing a person who is 21 years of age on probation arises out of reforming youthful offenders who are first convicts and commit an offence punishable with imprisonment of 7 years, such offenders have to be necessarily granted probation as such offenders if kept in the company of hardened criminals, there is likelihood of their turning into obdurate criminals. Releasing of such convict on probation always keeps him on the tenterhook as he is always conscious of the fact that if he indulges in any criminal activity during the period of probation, no more option is left with the court than to send him to jail for serving sentence.

3. In view of the fact that the appellant is a first convict and was below 21 years of age and has committed an offence which is punishable with imprisonment of seven years or less, he is entitled to benefit of Section 360 Cr.P.C. Moreover he has already remained in judicial custody for approximately two years which is likely to serve as a dampner for his future activities.

4. In the result, conviction is maintained and the sentence of imprisonment and fine is set aside. The appellant shall be released on probation for a period of one year on entering into a bond of Rs. 5000/- with one surety in the like amount to the satisfaction of the trial court and shall appear and receive sentence when called upon during such period and in the meantime shall keep peace and be of good behavior.

Appeal is dismissed with modified sentence.