

**Naseem Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/921032](http://sooperkanoon.com/921032)

**Court :** Delhi

**Decided On :** Sep-22-2011

**Judge :** Suresh Kait, J.

**Acts :** D. P. Act - Sections 53, 116

**Appeal No. :** CRL.Rev.P.No.388/2011 & Crl.M.B. No.1536/2011

**Appellant :** Naseem

**Respondent :** State

**Advocate for Def. :** Ms.Ritu Gauba, Adv.

**Advocate for Pet/Ap. :** Mr.Sunil Tiwari, Adv.

**Judgement :**

1. Learned counsel for the petitioner submits on instruction that the petitioner is not challenging the conviction and order on sentence passed by the learned Trial Court; which were upheld in appeal before learned Additional Sessions Judge. Only he is asking to release the petitioner on the sentence already undergone.

2. I note that the petitioner was held guilty under Section 53/116 D. P. Act vide judgment dated 09.03.2011 and vide Crl.R.P.No.388/2011 Page 1 of 3 order on sentence dated 17.03.2011 passed by learned Trial Court, has been sentenced to undergo RI for 04 months & fine of ` 3,000/-.

3. Being aggrieved, petitioner had filed Criminal Appeal before learned Additional Sessions Judge. Vide order dated 10.08.2011 appeal preferred by petitioner was dismissed by learned Additional Sessions Judge.
4. Learned counsel for the petitioner submits that petitioner has already deposited the fine of ` 3,000/-.
5. It is argued that since the petitioner has already remained for 1½ months in custody out of the total sentence of 04 months, therefore, maintaining the conviction, the petitioner should be released for the period already undergone in custody.
6. In view of fact that petitioner is a lady of 57 years, and has spent 1½ months in custody, I hereby modify the sentence order dated 17.03.2011 and appellate Court order dated 10.08.2011 to the extent already undergone.
7. The Jail authorities are directed to release the Crl.R.P.No.388/2011 Page 2 of 3 petitioner forthwith, if she is not warranted in any other case.
8. Copy of the order be sent to the Jail Superintendent for compliance.
9. Accordingly, Criminal Revision Petition No.388/2011 stands partially allowed.
10. In view of above order, Criminal M.B. No.1536/2011 renders infructuous and disposed of.