

Tofiq Vs. State

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Court : Delhi

Decided On : Apr-22-2013

Judge : S. P. Garg

Appellant : Tofiq

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI DECIDED ON :

22. d April, 2013 + CRL.A. 70/2011 TOFIQ Appellant Through : Mr.Abdul Sattar, Advocate. Versus STATE Respondent Through : Mr.M.N.Dudeja, APP for the State. AND + CRL.A. 78/2011 & CrI.M.B.No.781/2011 TANVEER & ANR Appellants Through : Mr.Jaivir Bains, Advocate. Versus STATE Respondent Through : Mr.M.N.Dudeja, APP for the State. Insp.Binay Singh, PS Hazrat Nizamuddin. CORAM: MR. JUSTICE S.P.GARG S.P.GARG, J.

1. Appellants-Tofiq, Tanveer and Mohd.Afsar @ Kallu challenge judgment dated 29.10.2010 in Sessions Case No.102/2009 arising out of FIR No.696/2007 registered at Police Station Hazrat Nizamuddin by which they were held guilty for committing offence punishable under Section 394 IPC and sentenced to undergo RI for four years with fine of `2,000/- each.

2. Allegations against the appellants were that on 20.12.2007 at 06.15 P.M., Mohan Lal Sharma was going to Nizamuddin Railway Station after crossing Lala

Lajpat Rai Marg after attending his office situated at C.G.O.Complex Office New Delhi. When he reached near the drain (Ganda Nala), Tofiq pushed him as a result of which Mohan Lal Sharma fell down. Mohd. Afsar @ Kallu and Tanvir caught hold of him and attempted to snatch black bag containing `400/- and some documents. Tanveer also inflicted knife injury on the left side abdomen of the complainant. When they were not successful in snatching the complainants bag, they fled the spot leaving the complainant lying in injured condition there. The victim was taken to Sahi hospital and from there he was taken to AIIMS Trauma Centre, New Delhi. DD No.15A was recorded at Police Station Hazrat Nizamuddin. SI Darsh Pandey recorded the statement of the victim and lodged First Information Report. During investigation, Tofiq and Mohd. Afsar @ Kallu were arrested on 22.12.2007 and their disclosure statements were recorded. Tanveer was initially arrested on 22.12.2007 in FIR No.698/2007 under Section 25 of the Arms Act. Pursuant to his disclosure statement, he was arrested in this case. The appellants declined to participate in the TIP proceedings. Statements of witnesses conversant with the facts were recorded. After completion of the investigation, all the three assailants were chargesheeted and brought to trial. The prosecution examined nine witnesses. In their 313 statements the appellants pleaded false implication. By the impugned judgment they all were held guilty under Section 394/34 IPC and sentenced.

3. During the course of arguments, the learned counsel for the appellants, on instructions, stated that they have opted not to challenge the findings on conviction under Section 394/34 IPC. He, however, prayed to take lenient view as the appellants have already undergone substantial period of sentence awarded to them.

4. I have heard the learned Additional Public Prosecutor and the counsel for the appellants and have examined the record. Since the appellants have opted not to contest the findings on conviction, their conviction under Section 394/34 IPC as recorded by the Trial Court is affirmed.

5. Regarding sentence, it appears that the appellants were sentenced to undergo RI for four years with fine of `2000/-each. Nominal roll dated 14.03.2012 reveals

that the appellant-Tofiq has already undergone substantive sentence of two years, two months and seven days. He also earned remission for three months and ten days. The period has now increased to more than three and a half years. Nominal roll dated 12.03.2012 reveals that Appellant-Mohd.Afsar has already undergone substantive sentence of one year, nine months and fifteen days. He also earned remission for five months and seventeen days. Nominal roll dated 14.03.2012 reveals that Appellant-Tanveer has already undergone substantive sentence of one year, ten months and two days. He has also earned remission for three months and ten days. The appellants are not involved in any other criminal case. They are not previous convicts.

6. Considering all these mitigating circumstances, the order on sentence is modified and the appellants are sentenced for the period already undergone by them in this case. They shall, however, deposit the fine of `2,000/- each within fifteen days before the Trial court.

7. The appeals stand disposed of in the above terms. Pending application, if any, also stands disposed of.

8. Trial Court record be sent back along with the copy of this order. (S.P.GARG)
JUDGE April 22, 2013 sa

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