

Deepak Kumar @ Deepu Vs. the State

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Court : Delhi

Decided On : Mar-20-2013

Judge : S. P. Garg

Appellant : Deepak Kumar @ Deepu

Respondent : The State

Judgement :

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

20. h March, 2013 + CRL.A. 1092/2010 & CRL.M.A.12522/2012 DEEPAK KUMAR @ DEEPUAppellant Through : Mr.Sumeet Verma, Advocate. versus THE STATE Through : .Respondent Mr.M.N.Dudeja, APP. CORAM: HON'BLE MR. JUSTICE S.P.GARG S.P.GARG, J.

1. The appellant- Deepak Kumar @ Deepu S/o Bharat Singh challenges judgment dated 16.08.2010 in Sessions Case No.89/2008 arising out of FIR No. 194/2004 PS Shahdara, by which, he and his associates were convicted and sentenced. The appellant was held guilty for committing offences punishable under Sections 392/394/411/34 IPC. Vide order dated 19.08.2010, he was sentenced to undergo RI for ten years under Section 394/34 IPC with fine ` 3,000/- and RI for three years under Section 411 IPC.

2. Allegations against the appellant were that on the night intervening 09/10.06.2004 at 12.30 A.M. near Hanuman Mandir, Shahdara, the appellant and

his associates Sanjay, Harish Kumar @ Pintu, Rohtash and Deepak S/o Babu Lal robbed TSR driver- Krishan Dev Pathak of cash ` 5,200/-, mobile phone, office key and I- card. They also caused injuries to him with knife while committing robbery. The prosecution examined fourteen witnesses to substantiate the charges. In their 313 Cr.P.C. statements, the accused pleaded false implication. The Trial Court by the impugned judgment held the appellant guilty for the offences described previously and sentenced him. Being aggrieved, the present appeal has been preferred.

3. During the course of arguments, learned counsel for the appellant Mr.Sumeet Verma, Advocate, on getting instructions from the appellant present in person pursuant to issuance of production warrant stated that the appellant has opted not to challenge his conviction under Section 394/411/34 IPC. He however, prays to take lenient view and reduce the substantive sentence from RI for ten years to RI for seven years.

4. I have considered the submissions of the parties and have examined the Trial Court record. Since the appellant has not opted to challenge the findings of the Trial Court on conviction under Sections 394/411/34 IPC, order of conviction of the Trial Court stands affirmed.

5. Regarding order on sentence, it reveals that allegations against the appellant are very serious whereby he and his associates robbed an innocent person during night and deprived him of cash and mobile phone. Nominal roll dated 17.03.2013 reveals that there are five different FIRs under different Sections pending against the appellant. He has also been convicted in three different FIRs under different Sections. The antecedents of the appellant are not clean. He deserves no leniency. However, considering the facts and circumstances of the case and the role assigned to the appellant in the incident, in my view, interest of justice would be served if his prayer to grant him RI for seven years instead of ten years is accepted. He has already remained in custody since long.

6. Considering all the facts and other circumstances of the case, order on sentence is modified and the substantive sentence of the appellant is reduced from RI for ten years to RI for seven years. Other sentences are left undisturbed.

7. The appeal filed by the appellant stands disposed of in the above terms. Pending application also stands disposed of.

8. The Trial Court record (if any) be sent back forthwith. (S.P.GARG) JUDGE
MARCH 20 2013/tr

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