



2026:DHC:9156



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 09.10.2026
Date of Decision: 15.10.2026
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CNR No. DLHC010951222024
+ **CRL.A. 1203/2024**
AAS MOHD @ASHU

....Appellant

Through: Mr. Rishi Malhotra, Sr. Adv. with Ms.
Ansuiya, Mr. Shivaansh Maini, Advs.
versus

STATE GOVT. OF NCT OF DELHI) Respondent
Through: Ms. Meenakshi Dahiya, APP
SI Rupesh Raj, PS Subhash Place,
Delhi

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present appeal has been preferred by the appellant, Aas Mohd. @ Ashu, challenging the judgment dated 11.05.2022 and the order on sentence dated 02.07.2022 passed by the learned Additional Sessions Judge-05, North-West District, Rohini Courts, Delhi, in **Sessions Case No. 817/2017** arising out of **FIR No. 346/2017** registered at Police Station Subhash Place, North West District, Delhi. *Vide* the impugned judgment, the appellant and the co-accused Mohd. Asif were convicted for the offences punishable under Section 392 read with Section 34 of the Indian Penal Code, 1860 [hereinafter referred to as 'IPC'], and Section 397 IPC and Section 27 of the Arms Act, 1959 [hereinafter referred to as 'Arms Act']. The appellant was sentenced to imprisonment already undergone with a fine of ₹5,000/- for the offence



punishable under Section 392 of IPC, Rigorous imprisonment (RI) for a period of seven years for the offence punishable under Section 397 IPC and imprisonment already undergone with a fine of ₹5,000/- for the offence punishable under Section 27 of the Arms Act.

FACTS

Prosecution's Case

2. The case of the prosecution is that on 22.07.2017, the complainant, Dikshant Goyal, a businessman in Karol Bagh, was returning home after having dinner at a restaurant in Pitampura. While waiting for his brother near the traffic signal at Kohat Metro Station, he parked his car on the roadside. At about 10:40 p.m., two persons wearing helmets arrived on a motorcycle and knocked on the window on the driver's side. When the complainant lowered the window glass, they enquired about the way to D-Block. It is alleged that both persons thereafter pointed country-made pistols at his head and robbed him of a gold chain worn around his neck, a gold *kada* worn on his wrist and a gold ring worn on his finger, whereafter they fled from the spot. On the basis of the statement of the complainant, the aforementioned FIR was registered under Section 392 read with Section 34 IPC at the concerned police station.

3. During the course of investigation, officials of the Special Staff are stated to have apprehended the appellant and the co-accused in another case. Their disclosure statements were recorded and they were formally arrested in the present case on 06.09.2017. They allegedly disclosed that the stolen articles had been sold to one Aman @ Amanullah, a jeweller in Loni, Uttar Pradesh. Test Identification Proceedings [hereinafter referred to as 'TIP'] were thereafter conducted on 11.09.2017, wherein the complainant identified both the accused persons. Aman @ Amanullah, the jeweller, was also arrested, however, no recovery was effected from him and he was released



during investigation. The prosecution further relied upon the alleged recovery of the two country-made pistols and the motorcycle stated to have been used in the commission of the offence. Upon completion of investigation, the charge-sheet was filed against the appellant and the co-accused.

Framing of Charges

4. Upon consideration of the material on record, the learned Trial Court, *vide* order dated 08.01.2018, framed charges against the appellant and the co-accused, Mohd. Asif, under Section 392 read with Section 34 IPC and Section 397 read with Section 34 of IPC. It was alleged that on 22.07.2017, at about 10:40 p.m., in front of Metro Apartment near Kohat Metro Station, Pitampura, they, in furtherance of their common intention, robbed the complainant of a gold chain weighing 35 grams, a gold *kada* weighing 34 grams and a gold ring weighing 10 grams containing a diamond valued at ₹60,000/-, and used two firearms (*kattas*) while committing the robbery. Thereafter, on 07.02.2018, upon the learned Additional Public Prosecutor (APP) pointing out that the charge-sheet also alleged the use of pistols during the commission of the robbery, an additional charge under Section 27 of the Arms Act was framed against both the accused persons for the alleged use of the said firearms in contravention of Section 7 of the Arms Act. The appellant and the co-accused pleaded not guilty to the charges and claimed trial.

Prosecution Evidence (PE)

5. In support of its case, the prosecution examined eight (8) witnesses. The complainant, Dikshant Goyal (PW-1), narrated the incident and identified the appellant and the co-accused both during the TIP and before the Court. He also identified the two pistols alleged to have been used during the commission of the offence. SI Maan Singh (PW-2) proved **DD No. 66A**, while SI Babu Khan (PW-5) proved the registration of the FIR. SI Dipender Singh



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(PW-3) and HC Vikas (PW-4), officials of the Special Staff, deposed regarding the apprehension of the accused persons in **FIR No. 211/2017** registered at Police Station Moti Nagar and the alleged recovery of two country-made pistols, ammunition, a gold chain, two wristwatches and a motorcycle. Ct. Narender (PW-6) and ASI Ranvir Singh (PW-7) deposed regarding the initial investigation, including the recording of the complainant's statement, preparation of the *rukka* and site plan, formal arrest of the accused persons and collection of the documents relating to their apprehension and the alleged recoveries. Sh. Ravinder Singh-II, learned Metropolitan Magistrate (PW-8), proved the TIP proceedings conducted in respect of both the accused persons.

Defence Evidence (DE)

6. After the conclusion of the prosecution evidence, the incriminating circumstances appearing against the appellant and the co-accused were put to them in their respective statements recorded under Section 313 of the Code of Criminal Procedure, 1973 [hereinafter referred to as 'CrPC']. Both the accused persons denied the prosecution evidence, claimed false implication and opted to lead evidence in their defence. However, no defence evidence was adduced and, accordingly, the defence evidence was closed on 11.03.2020.

Impugned judgment

7. Upon appreciation of the evidence on record, the learned Trial Court found the testimony of the complainant (PW-1) to be reliable and held that the identity of the appellant and the co-accused stood established through the TIP proceedings as well as by their identification before the Court. The contention that the complainant could not have seen their faces since they were wearing helmets was rejected upon noticing his testimony that the visors



of the helmets had been raised and that the helmets covered only their foreheads and heads. The learned Trial Court further observed that the complainant had sufficient opportunity to see the accused persons and that his testimony regarding their identity remained unshaken during cross-examination. Consequently, the lapse of approximately 51 days between the incident and the conduct of the TIP was held not to render the identification doubtful. The absence of a medical examination was also held to be inconsequential, since the injury allegedly caused while snatching the chain was minor and did not require medical attention. The learned Trial Court further observed that the complainant had furnished sufficient particulars of the stolen articles in his initial statement, including their respective weights and the value of the diamond, and held that the prosecution case could not be discarded merely because the stolen articles had not been recovered. The discrepancies sought to be raised regarding the number of documents signed by the complainant and the date of preparation of the site plan were also found insufficient to discredit his testimony. Relying upon the deposition of PW-1 that both accused persons had placed pistols against his head, his identification of the pistols produced before the Court, and the testimonies of PW-3 and PW-4 regarding their recovery, the learned Trial Court held that the use of deadly weapons during the commission of the robbery stood proved. Accordingly, both accused persons were convicted for the offences punishable under Section 392 read with Section 34 IPC, Section 397 IPC and Section 27 of the Arms Act.

Order on Sentence

8. Thereafter, arguments on the quantum of sentence were heard and, *vide* order dated 02.07.2022, the learned Trial Court took into consideration the age of the convicts, their family responsibilities, the period of approximately



four years and ten months already undergone by them in custody and the fact that no previous conviction had been proved against them. As a result, the appellant was sentenced to imprisonment already undergone and a fine of ₹5,000/- for the offence punishable under Section 392 IPC in case of a default of payment of which, it was stated that he undergo simple imprisonment for a period of one month. For the offence punishable under Section 397 IPC, he was sentenced to rigorous imprisonment for a period of seven years. For the offence punishable under Section 27 of the Arms Act, he was sentenced to imprisonment already undergone and a fine of ₹5,000/-, in case of a default of payment of which, it was stated that he undergo simple imprisonment for a period of one month. All the sentences of imprisonment were directed to run concurrently and the benefit of Section 428 CrPC was extended to him. The learned Trial Court further awarded a compensation of ₹10,000/- to the complainant and directed that it be recovered from both the convicts out of the cumulative fine of ₹20,000/- imposed upon them and that it be released to the complainant. The order records that the fines had not been paid on the date of sentencing.

9. Aggrieved by the aforesaid conviction and the order on sentence, the appellant preferred the present criminal appeal before this Court. In the present proceedings, a delay of 935 days in filing the present appeal stood condoned and the application filed by the appellant seeking suspension of his sentence awarded by the learned Trial Court was also dismissed.

SUBMISSIONS ADVANCED
On behalf of the Appellant

10. Learned Senior Counsel appearing on behalf of the appellant confined the challenge pressed during the hearing to the appellant's conviction under Section 397 IPC. It was submitted that, even if the testimony of the



complainant/PW-1 is accepted at its highest, the allegation against the appellant is that he kept a pistol pointed at the complainant and required him to remove his gold *kada* and diamond engagement ring, which were handed over out of fear, whereas the gold chain was allegedly snatched by the co-accused. Learned Senior Counsel clarified that the appellant was not seeking acquittal for the offence punishable under Section 392 IPC and that the limited controversy was whether the aforesaid conduct additionally attracted Section 397 IPC.

11. Drawing the attention of this Court to Section 390 of IPC, particularly Illustration (b) appended thereto, the learned Senior Counsel submitted that showing a pistol to a person, thereby placing him in fear of instant hurt and inducing him to immediately deliver the property, is expressly treated as robbery. It was contended that such conduct would, therefore, be punishable under Section 392 IPC. That Section 397 IPC requires the further statutory ingredient of “use” of a deadly weapon, causing grievous hurt, or attempting to cause death or grievous hurt and that there is no allegation that the appellant fired the pistol, caused grievous hurt, or attempted to cause death or grievous hurt.

12. Reliance was placed upon the decision of the Supreme Court in **Ajit Singh v. State of Haryana, (1996) 3 SCC 335**. Learned Senior Counsel submitted that, in the said case, although a pistol had initially been pointed at the victim and was subsequently fired during the ensuing confrontation after the victim had struck the accused with a milk can, the Supreme Court, having regard to the facts of that case, set aside the convictions under Sections 394 and 397 IPC while sustaining the conviction under Section 392 IPC. It was therefore contended, that the appellant’s case stood on a stronger footing since no firing of the weapon or injury caused by its use was attributed to him.



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13. Learned Senior Counsel further, assailing the reasoning contained in the impugned judgment submitted, that the learned Trial Court first held that placing the complainant in fear of instant death or hurt proved the offence under Section 392 IPC and thereafter relied upon the pointing, recovery and identification of the pistols to hold that Section 397 IPC also stood attracted, without separately examining whether the manner in which the weapon was allegedly employed satisfied the requirement of “use” under Section 397 IPC. It was pointed out that the appellant had been sentenced under Section 392 IPC to the period already undergone, stated to be approximately four years and ten months, whereas the conviction under Section 397 IPC resulted in the statutory minimum sentence of seven years. Accordingly, it was prayed that the conviction and sentence under Section 397 IPC be set aside.

On behalf of the State

14. Learned APP for the State opposed the appeal and submitted that Section 397 IPC constitutes the aggravated form of robbery. It was contended that the material consideration is the use of a deadly weapon at the time of committing the robbery and that in the present case, both accused persons were armed with pistols and used them by pointing them at the complainant and placing him in fear, thereby compelling him to part with the three articles of jewellery. That the pistols were subsequently recovered and identified, and the complainant had identified the accused persons and furnished particulars of the stolen articles. The ingredients of Section 397 IPC were, therefore, stated to be duly established. The conviction recorded by the learned Trial Court was, accordingly, sought to be sustained.

Rebuttal on behalf of the Appellant

15. In rebuttal, the learned Senior Counsel for the appellant reiterated that fear of instant death or hurt is the very circumstance contemplated under



Section 390 IPC. It was submitted that there was no allegation of any attempt by the appellant to cause death or grievous hurt and that, if the same act of pointing a pistol and creating fear were treated as sufficient for both Sections 392 and 397 IPC, the distinction between the two provisions would stand effaced. Reliance was again placed upon Illustration (b) to Section 390 IPC, and the prayer for setting aside the conviction under Section 397 IPC was reiterated.

ANALYSIS AND FINDINGS

16. This Court has heard the learned Senior Counsel for the appellant and the learned APP for the State and has also perused the material placed on record.

17. The challenge pressed in the present appeal is confined to the applicability of Section 397 IPC and the appellant does not seek interference with his conviction for robbery under Section 392 IPC. So the question which therefore arises for consideration is whether placing a pistol against the complainant's head and thereby compelling him to surrender his valuables constitutes "use" of a deadly weapon within the meaning of Section 397 IPC, notwithstanding the fact that the pistol was neither fired nor used to inflict any injury.

18. Before examining the appellant's contention, this Court deems it apposite to reproduce the provision of Section 397 IPC.

*397. Robbery or dacoity, with attempt to cause death or grievous hurt.--**If, at the time of committing robbery or dacoity, the offender uses any deadly weapon,** or causes grievous hurt to any person, so attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years. (Emphasis supplied)*



19. Section 397 IPC as can be seen prescribes a minimum sentence of seven years where, at the time of committing robbery or dacoity, the offender uses any deadly weapon, causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person. Now these are alternative aggravating circumstances, and proof of any one of them is sufficient to attract the minimum sentence provided for in the provision. This provision neither creates a separate substantive offence nor does it operate as an alternative to Section 392 IPC. It regulates the punishment for robbery or dacoity where the offender's conduct falls within any of the specified aggravating circumstances as stated above. Consequently, once the offender's use of a deadly weapon at the time of the robbery is established, the prosecution is not additionally required to prove that the offender caused grievous hurt or attempted to cause death or grievous hurt. The appellant's contention therefore, as stated above has to be examined by determining whether placing the pistol against the complainant's head amounted to "use" of a deadly weapon within the meaning of Section 397 IPC.

20. The meaning of the expression "uses" was considered by the Supreme Court in the case of **Phool Kumar v. Delhi Admn., (1975) 1 SCC 797** wherein it was held, that carrying a deadly weapon within the vision of the victim, so as to frighten or terrorise him during the commission of robbery, is sufficient to attract the rigours of Section 397 IPC. That no further overt act, such as causing injury with the weapon concerned, is necessary. A deadly weapon being used to compel the victim to part with his property was held to be sufficient by the Supreme Court to attract this provision. The relevant portions of the aforesaid judgment read as under:

5. Section 392 of the Penal Code provides:



“Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.”

The sentence of imprisonment to be awarded under Section 392 cannot be less than seven years if at the time of committing robbery the offender uses any deadly weapon or causes grievous hurt to any person or attempts to cause death or grievous hurt to any person: vide Section 397. A difficulty arose in several High Courts as to the meaning of the word “uses” in Section 397. The term “offender” in that section, as rightly held by several High Courts, is confined to the offender who uses any deadly weapon. The use of a deadly weapon by one offender at the time of committing robbery cannot attract Section 397 for the imposition of the minimum punishment on another offender who had not used any deadly weapon. In that view of the matter use of the gun by one of the culprits whether he was accused Ram Kumar or somebody else, (surely one was there who had fired three shots) could not be and has not been the basis of sentencing the appellant with the aid of Section 397. So far as he is concerned, he is said to be armed with a knife which is also a deadly weapon. To be more precise from the evidence of PW 16 “Phool Kumar had a knife in his hand”. He was therefore carrying a deadly weapon open to the view of the victims sufficient to frighten or terrorize them. Any other overt act, such as, brandishing of the knife or causing of grievous hurt with it was not necessary to bring the offender within the ambit of Section 397 of the Penal Code.

6. Section 398 uses the expression “armed with any deadly weapon” and the minimum punishment provided therein is also seven years if at the time of attempting to commit robbery the offender is armed with any deadly weapon. This has created



an anomaly. It is unreasonable to think that if the offender who merely attempted to commit robbery but did not succeed in committing it attracts the minimum punishment of seven years under Section 398 if he is merely armed with any deadly weapon, while an offender so armed will not incur the liability of the minimum punishment under Section 397 if he succeeded in committing the robbery. But then, what was the purport behind the use of the different words by the Legislature in the two sections viz. “uses” in Section 397 and “is armed” in Section 398. In our judgment the anomaly is resolved if the two terms are given the identical meaning. There seems to be a reasonable explanation for the use of the two different expressions in the sections. When the offence of robbery is committed by an offender being armed with a deadly weapon which was within the vision of the victim so as to be capable of creating a terror in his mind, the offender must be deemed to have used that deadly weapon in the commission of the robbery. On the other hand, if an offender was armed with a deadly weapon at the time of attempting to commit a robbery, then the weapon was not put to any fruitful use because it would have been of use only when the offender succeeded in committing the robbery.

7. If the deadly weapon is actually used by the offender in the commission of the robbery such as in causing grievous hurt, death or the like then it is clearly used. In the cases of Chandra Nath v. Emperor²; Nagar Singh v. Emperor³ and Inder Singh v. Emperor⁴ some overt act such as brandishing the weapon against another person in order to overawe him or displaying the deadly weapon to frighten his victim have been held to attract the provisions of Section 397 of the Penal Code. J.C. Shah and Vyas, JJ. of the Bombay High Court have said in the case of Govind Dipaji More v. State⁵ that if the knife



“was used for the purpose of producing such an impression upon the mind of a person that he would be compelled to part with his property, that would amount to ‘using’ the weapon within the meaning of Section 397.”

In that case also the evidence against the appellant was that he carried a knife in his hand when he went to the shop of the victim. In our opinion this is the correct view of the law and the restricted meaning given to the word “uses” in the case of Chand Singh¹ is not correct. (Emphasis supplied)

21. The aforesaid principle was reiterated in the case of ***Ashfaq v. State (Govt. of NCT of Delhi)***, (2004) 3 SCC 116 wherein the Supreme Court rejected the contention that Section 397 IPC requires the weapon to have actually been used for cutting, stabbing or shooting. It further explained that Section 397 IPC does not create a new substantive offence, but that it only complements Sections 392 and 395 of IPC by prescribing a minimum punishment where the specified aggravating circumstances provided for in Section 397 IPC accompany the concerned robbery or dacoity.

22. More recently, a three-Judge Bench of the Apex Court in the case of ***Ram Ratan v. State of M.P.***, 2021 SCC OnLine SC 1279, considered the earlier decisions and expressly reiterated that actual firing from a firearm or stabbing with a knife is unnecessary and that exhibition, brandishing or openly holding the weapon to threaten and create fear in the victim’s mind is sufficient. The relevant observations are reproduced hereinunder:

17. From the position of law as enunciated by this Court and noted above, firstly, it is clear that the use of the weapon to constitute the offence under Section 397 IPC does not require that the ‘offender’ should actually fire from the firearm or actually stab if it is a knife or a dagger but the mere exhibition of the same, brandishing or holding it



openly to threaten and create fear or apprehension in the mind of the victim is sufficient. The other aspect is that if the charge of committing the offence is alleged against all the accused and only one among the 'offenders' had used the firearm or deadly weapon, only such of the 'offender' who has used the firearm or deadly weapon alone would be liable to be charged under Section 397 IPC. (Emphasis supplied)

23. Applying the aforesaid principles to the evidence on record, this Court finds that the requirements for attracting Section 397 IPC stand established against the appellant. PW-1 specifically deposed that the appellant, Aas Mohd., kept a pistol against his head and asked him to remove his gold *kada* and engagement diamond ring, whereupon he handed over the articles, while the co-accused snatched the gold chain from his neck. The relevant portion of his i.e. PW-1's testimony is as follows:

Both the accused persons were having a pistol each and they put their pistols on my head. Accused Aas Mohd. kept his pistol on my head and asked me to remove my gold kaada and engagement diamond ring. (Emphasis supplied)

24. Firstly, the appellant's act of placing the complainant in fear of instant death or hurt, while being physically present before him, and thereby dishonestly inducing him to deliver his valuables then and there establishes the commission of robbery.

25. Secondly, the weapon employed was a pistol, which constitutes a deadly weapon and the usage of a deadly weapon in committing the offence of robbery is what the law requires to further add the rigours of section 397 IPC. In the present case, PW-1 identified the pistols produced before the Court



as those used during the incident, and their recovery was also supported by the testimonies of PW-3 and PW-4.

26. Thirdly, PW-1's testimony establishes both the manner in which the pistol was used and its use during the commission of the robbery. The appellant kept the pistol against the complainant's head while demanding his gold *kada* and engagement diamond ring, thereby placing him in fear of instant death or hurt and compelling him to hand over the articles then and there. The pistol was thus employed as the means of securing delivery of the valuables. Such employment of a deadly weapon constitutes "use" within the meaning explained in ***Phool Kumar v. Delhi Admn. (supra)***, ***Ashfaq v. State (Govt. of NCT of Delhi) (supra)*** and ***Ram Ratan v. State of M.P. (supra)***, without any further requirement of firing or infliction of injury. Since the appellant employed the pistol while demanding and obtaining the valuables, the requirement that such use occur "*at the time of committing robbery*" also stands satisfied.

27. Fourthly, the evidence specifically establishes the appellant's own use of the deadly weapon. PW-1 identified the appellant before the Court and expressly attributed to him the act of keeping the pistol against his head while demanding the gold *kada* and engagement diamond ring. This testimony establishes the individual act required to attract Section 397 IPC against the appellant. His liability under the provision thus arises from his personal use of the pistol to commit the robbery, independently of the acts attributed to the co-accused.

28. The aforesaid finding is consistent with the interpretation of Section 397 IPC laid down by the Supreme Court. Keeping the pistol against the complainant's head while demanding his valuables constitutes use of the weapon for the purpose of committing robbery. The absence of firing does



not detract from that use. Nor does the absence of an injury establish that the appellant had no intention to use the pistol as his deliberate employment of it to compel delivery of the articles is itself the relevant act. Since Section 397 IPC is attracted on this basis, neither proof of grievous hurt nor medical evidence of the neck injury attributed to the co-accused is necessary to sustain its application against the appellant.

29. The reliance placed upon Illustration (b) appended to Section 390 of IPC does not advance the appellant's case either. The said illustration is as under:

(b) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

30. This illustration explains that showing a pistol and thereby inducing a person, through fear of instant hurt, to immediately surrender his property constitutes robbery. However, it does not provide, that such conduct is punishable exclusively or only under Section 392 of IPC, irrespective of the use of a deadly weapon. Section 390 IPC defines robbery and Section 392 of IPC punishes that robbery. Section 397 IPC further punishes robbery when it is committed in addition to the circumstances specified therein but it does not altogether, introduce a different or a new offence. Therefore, these provisions operate together. The distinction between them is maintained because robbery does not necessarily involve the use of a deadly weapon but where the use of one is proved, the additional consequence prescribed by Section 397 IPC follows. The fact that the weapon also supplied the means of intimidation required does not exclude the operation of Section 397 IPC.



31. The decision in *Ajit Singh v. State of Haryana*, (1996) 3 SCC 335, relied upon by the learned Senior Counsel appearing for the appellant, requires consideration in its own factual setting. The prosecution narrative in that case included the initial pointing of a pistol at the victim and the taking of money and watches. Thereafter, during an attempt to take the scooter, the victim struck the appellant with an empty milk can, following which the appellant fired and injured the victim's hand. Thus, the decision cannot be distinguished merely by suggesting that the pistol was first brought into use after the taking of the property. The decision in this aforesaid case does not expressly lay down that pointing a deadly weapon at a victim to compel the surrender of property falls outside the expression "uses" in Section 397 IPC. The fact-specific relief granted therein cannot be read as prescribing actual firing or injury as a necessary or mandatory requirement by the Apex Court. The meaning of the term "use" stands expressly explained in *Phool Kumar v. Delhi Admn. (supra)* and *Ashfaq v. State (Govt. of NCT of Delhi) (supra)*, which has also subsequently been reaffirmed by the three-Judge Bench decision in *Ram Ratan v. State of M.P. (supra)* and applying the interpretation laid down in the aforesaid precedents, the submission made by the learned Senior Counsel that his case stands on a better footing merely because he did not fire the pistol cannot be accepted.

32. As the appellant's use of a deadly weapon has been established, the minimum punishment prescribed by Section 397 IPC also applies. The sentence of seven years' rigorous imprisonment awarded by the learned Trial Court, therefore, warrants no interference on the grounds urged.

CONCLUSION

33. In view of the foregoing discussion, this Court finds no merit in the challenge to the applicability of Section 397 IPC.



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34. The impugned judgment dated 11.05.2022 and the order on sentence dated 02.07.2022 passed by the learned Additional Sessions Judge-05, North-West District, Rohini Courts, Delhi, in **Sessions Case No. 817/2017** arising out of **FIR No. 346/2017** registered at Police Station Subhash Place, North West District, Delhi do not call for any interference by this Court.

35. Accordingly, the present appeal is dismissed and thereby, disposed of.

36. Pending application(s), if any, also stand(s) disposed of.

37. Interim order(s), if any, also stand(s) vacated.

38. A copy of this judgment be sent to the concerned learned Trial Court and the concerned Jail Superintendent for information and necessary compliance.

39. This judgment be uploaded on the website *forthwith*.

MADHU JAIN
(JUDGE)

OCTOBER 15, 2026/PG