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

% **Date of order: 4th March, 2025**

\+ CRL.REV.P. 237/2023

CENTRAL BUREAU OF INVESTIGATION .....Petitioner

Through: Mr. Ravi Sharma, SPP along with Mr. Swapnil Choudhary, Mr. Ishann Bhardwaj, Mr. Sagar and Ms. Madhulika Rai Sharma, Advocates

versus

MD. YASEEN WANI & ORS. .....Respondents

Through: Mr. Shiv Kumar Sharma and Mr. Nitin Joy, Advocates for R-1 to R-4 along with respondent no.3.

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant revision petition under Section 397 read with Sections 401/482 of the Code of Criminal Procedure, 1973 (hereinafter "CrPC") [now Sections 438/442/528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS")] has been filed on behalf of the petitioner/revisionist seeking setting of the judgment dated 22nd July, 2022, passed by the learned Special Judge (PC Act), Rouse Avenue District Courts, New Delhi, in Criminal Appeal No. 2/2022.

2. The brief facts that led to the filing of the instant revision petition are

that learned Trial Court convicted the accused persons/respondents for the offences punishable under Section 120B of the Indian Penal Code, 1860 (hereinafter "IPC) read with Sections 49(B)(1) and 58 of the Wild Life (Protection) Act, 1972, (hereinafter "the Act") punishable under Section 51 of the said Act. The allegations against the accused persons were that, in the year 2005, during search of some of the accused persons' premises, total eight *Shahtoosh Shawls*, which are banned under Schedule I of the Act were recovered and some more shawls were recovered from the premises of the other co-accused persons. Based on the said recovery, CBI registered FIR bearing RC No. SIB 2005 E0010-EOU-V in the year 2005 (CBI no. 270/2019).

3. In the case against the accused persons before the learned Trial Court, (CBI No. 270/2019), the accused persons, upon pleading guilty, were found guilty of the allegations made against them vide order dated 23rd November, 2021. Further, vide order dated 14th December, 2021, the learned Trial Court passed the order on sentence against the accused persons, wherein, they were sentenced to pay fine of Rs.10,000/- each, and in default, simple imprisonment for two months.

4. Being aggrieved by the aforesaid order on sentence, CBI filed an appeal before the learned Special Judge who, vide the impugned judgment dated 22nd July, 2022, modified the order of sentence passed by the learned Trial Court to the extent that all the accused persons were now sentenced for the offences under Section 120B of the IPC read with Section 49(B)(1), punishable with Section 51(1A) of the Act for the period already undergone

in jail and to pay a fine of Rs. 20,000/-; and in default of payment of fine, the accused persons shall undergo simple imprisonment of three months.

5. Being aggrieved by the impugned judgment dated 22nd July, 2022, the petitioner has filed the instant petition seeking setting aside of the same.

6. Mr. Ravi Sharma, learned SPP appearing on behalf of the petitioner/revisionist submitted that the impugned judgment is bad in law and liable to be set aside as the same has been passed without taking into consideration the settled position of law.

7. It is submitted that Section 51(1A) of the Act, under which the respondents have been convicted, provides for minimum punishment of three years which may extend to seven years, and also with fine not less than Rs. 10,000/-. Hence, the discretion in awarding sentence of imprisonment has to be exercised within the statutory framework provided by the legislature, wherein, awarding a minimum punishment of three years has been mandated.

8. It is submitted that Section 51(5) of the Act provides for the exclusion of provisions of Probation of Offenders Act, 1958 (hereinafter "Probation Act") and Section 360 of the CrPC *qua* the offences provided for under Chapter VA of the Act, except for the persons being under eighteen years of age. It is submitted that in view of the same, any leniency in awarding sentence for contravention of the aforesaid provisions would run contrary to the purpose and objectives of insertion of provision of Chapter VA of the Act.

9. It is submitted that as per the settled position of the law, where

minimum sentence is provided for, the Court cannot impose less than the minimum sentence. Reliance in this regard has been placed upon the judgment of the Hon'ble Supreme Court passed in ***State of M.P. v. Vikram Das*, (2019) 4 SCC 125**.

10. It is submitted that the learned Special Judge erred in passing the impugned judgment by holding that the learned Trial Court wrongly sentenced the respondents for payment of fine only and did not award any substantial punishment. The learned Special Judge, after holding that the learned Trial Court failed to award any substantial punishment, merely proceeded to award sentence, thereby, enhancing the fine to Rs. 20,00/- and awarding imprisonment for the period already undergone in jail.

11. It is also submitted that the act of learned Special Judge in awarding 'sentence already undergone in jail' is also an error of law and requires interference of this court. It is submitted that accused person namely Md.Yaseen Wani and Md. Imtiyaz Wani were arrested at 9:30 PM on 21st. November, 2005, and thereafter on the basis of disclosure made by the above accused persons, two more accused persons, namely, Asif, Hussain and Gohar Amin were arrested on 22nd November, 2005. Subsequent to the above said events, all the above mentioned accused persons were produced before the learned Duty Metropolitan Magistrate (hereinafter "MM") who directed judicial custody till 6th December, 2005 at the Tihar Jail, however, the authorities at the Tihar Jail did not accept the accused person after 7:00 PM.

12. It is further submitted that the learned Duty MM had also directed to

produce all the accused persons before the competent court on 23rd November, 2005. Pertinently, all the accused persons were granted bail by the Court Concerned and thus, none of the accused persons have undergone imprisonment of more than two days, therefore, the findings made in the impugned judgment is bad in law.

13. It is submitted that the impugned judgment is not legal in view of the aforesaid judgment and thus, it is prayed that the instant petition may be allowed and an appropriate order on sentencing may be awarded.

14. *Per contra*, the learned counsel appearing on behalf of the respondents vehemently opposed the instant petition submitting to the effect that the impugned judgment has been passed in terms of the settled position of law as well as bearing in mind the peculiar facts of the case, wherein, the same was pending for more than sixteen years and the accused persons are senior citizens who belong to Jammu and Kashmir.

15. It is further submitted that this Court has limited jurisdiction while exercising revisional powers under the CrPC and thus, the impugned judgment, being right in law, does not invite any interference of this Court. Therefore, it is prayed that the instant petition may be dismissed.

16. Heard learned counsel appearing on behalf of the parties and perused the material available on record. Here, it becomes imperative to mention that the order on conviction is not under challenge before this Court and only the order on sentence has been assailed.

17. Before adverting to the merits of the instant petition, it is pertinent to state here that this petition has been field under the revisional jurisdiction of

this Court. As per the settled law, the revisional jurisdiction of this Court must be exercised in a limited manner such as in the case of a palpable error, non-compliance with the provisions of law or when the decision involves arbitrary exercise of judicial discretion. The purpose of the exercise of the said jurisdiction is to ensure that the ends of justice are secured and there is no abuse of process of the court.

18. With respect to the present case, the learned SPP for the petitioner contends that the impugned judgment is legally unsustainable as it disregards the settled principles of law.

19. Section 51(1A) of the Act mandates a minimum sentence of three years, extendable to seven years, along with a fine not less than Rs. 10,000/-, thereby, leaving no scope for the Court to exercise discretion in reducing the sentence below the statutory minimum which was wrongly exercised by the learned Trial Court as well as the learned Special Judge.

20. Further, Section 51(5) of the Act expressly excludes the applicability of the Probation Act and Section 360 of the CrPC to offences under Chapter VA, barring cases where the offender is below eighteen years of age. Any deviation from the prescribed punishment would be contrary to the legislative intent. It is also argued that the learned Special Judge erred in holding that the Trial Court wrongly imposed only a fine but then proceeded to award a sentence of 'already undergone' along with an enhanced fine, which fails to conform to the statutory requirements. Furthermore, it is submitted that the finding of 'sentence already undergone' is erroneous, as none of the accused underwent imprisonment for a substantial period. Since

none of the accused remained in custody beyond two days, the impugned judgment suffers from legal infirmity and warrants interference.

21. Here, it becomes relevant to peruse the impugned judgment. The relevant portion of the same is as under:

> *"6. The Ld. Trial Court has mentioned Section 58 also but the said Section applies to company on whose behalf offences are committed. In the instant case, there was no company who was arrayed as an accused therefore the Section 58 is not applicable. In substance, the punishment which could be awarded to the accused persons would be applicable for the offences under Section 49(B)(1) read with Section 51(1A) of the said Act which is upto a period of 7 years along with a fine not less than Rs. 10,000 provided said sentence shall not be less than three years. Besides it, the Section 120B IPC will be the additional offence/punishment.*
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> *7. A query was raised whether a Criminal Court can grant a sentence less than the minimum sentence as provided in any provision of law. In this regard, the Ld. Counsel for the accused relied on the following cases:*
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> ***(i) 'Babloo vs. The State, Crl. Appeal No. 169 of 2001 where it was observed by Hon'ble High Court of Delhi as under:***
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> *"The quantum of sentence has to be decided after giving due consideration to the facts and circumstances of each case. For deciding just and appropriate sentence to be awarded for an offence, the aggravating and mitigating factors and circumstances in which a crime has been committed are to be delicately balanced on the basis of relevant circumstances in a dispassionate manner by the court. In order to exercise the discretion of reducing the sentence below the statutory minimum, the requirement is that the*

court has to record adequate and special reasons".

(i) Mohd. Imran Khan & etc. vs. State, Crl. Appeal No. 311 & 312 of 1999' where it was observed by Hon 'ble High Court of Delhi as under:

"As regards sentence though the minimum prescribed punishment is imprisonment for 07 years coupled with fine. 1he Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than 7 years".

8. From the aforesaid cases, it is clear that a criminal court can grant a sentence lesser than the minimum sentence prescribed under law by citing adequate and special reasons. From the order on sentence of the Ld. Trial Court, it is seen that the accused persons were sentenced leniently keeping in mind the long period of trial of 16 years. senior citizen status of some of the accused person and the fact that they voluntarily pleaded guilty for the offences during the course of trial which saved the precious time of the court. As per Section 51(5) of the Wild Life (Protection) Act. grant of probation is not permissible and it seems that due to said reason despite the calling of a report of the Probation Officer, none of the accused persons were released on probation through they were given minimum sentence of fine of Rs. 10,000 each. This scenario reflect the existence of adequate and special reasons for exercising the power to take a lenient view.

9. However, the order on sentence reveals that the Ld. Trial Court imposed only a fine without awarding any substantial punishment. As such, on that point, the order of Ld. Trial Court suffers from illegality. Accordingly. in the light of aforesaid discussion, the said order is modified to the extent that all the accused persons stands are sentenced for the offences under Section 120B of IPC r/w 49 (B)(1) punishable under Section 51(1A) of Wild Life (Protection) Act, 1972 for the period already undergone in jail and to pay a fine of Rs.20,000. In

default of payment of fine, they will undergo simple imprisonment of three months. As regards accused Mohd. Ashraf Mir, it is stated that he has not spent any day in jail as he was not arrested. It is stated that he is 75 years of age and suffering from ailments and if he is sent to jail. he may suffer mental and physiological trauma.

10. Accordingly, keeping in mind the special and adequate reasons, he is sentenced to serve TRC on any day (within next 15 days) before the Ld. Trial Court and to pay the unpaid fine. All the convict persons have already paid fine of Rs. 10,000 as awarded by the Ld. Trial Court. Accordingly, remaining fine of Rs. 10,000 be paid by all the accused persons be paid within 15 days before the Ld. Trial Court. The convict persons are directed to appear before the Ld. Trial Court for compliance on ***05.08.2022****. The present appeal is disposed off with the aforesaid direction by modifying the impugned order on sentence. The Trial Court record be sent back along with copy of judgment……..”*

22. Upon perusal of the aforesaid extracts, it is made out that the criminal appeal was filed under Section 377 of the CrPC by the CBI against the order on sentence. In the appeal, the CBI contended that the order on sentence was illegal, unlawful, and contrary to established legal provisions. The primary argument put forth by the CBI was that the accused persons were convicted under Section 120B of the IPC read with Section 49(B)(1) and Section 58 of the Act for their involvement in the illegal manufacturing and dealing of scheduled animal articles. These offences were allegedly committed by the accused persons in the production of shawls, which, according to the CBI, were made by killing animals. The CBI submitted that the sentence ought to reflect the gravity of the offences, as the law prescribes a punishment of

imprisonment for up to seven years, with a minimum sentence of three years.

23. On the other hand, it was argued on behalf of the accused persons that there was no killing of animals involved, and the shawls in question were purchased by the accused persons from a third party. The counsel further contended that the accused persons are innocent and that their guilty pleas were entered into during the trial on the assurance of the court that a lenient view would be taken. The learned counsel contented that the accused persons had been facing trial for over sixteen years, and to avoid the prolonged agony of the legal proceedings, they chose to plead guilty. It was also argued that cases with similar offences resulted in minor sentences, and in some instances, the accused were granted probation.

24. After hearing the parties, the learned Special Judge noted that the learned Trial Court convicted the accused persons under Section 120B of the IPC, read with Section 49(B)(1) and Section 58 of the Act and imposed penalties under Section 51 of the Act. Section 49(B)(1) of the Act prohibits individuals from engaging in the business of manufacturing or dealing in articles derived from scheduled animals, and the punishment for such offences under Section 51(1A) of the Act is a term of imprisonment of up to seven years, along with a fine of not less than Rs. 10,000, with a mandatory minimum sentence of three years. The learned Trial Court, however, had erroneously referenced Section 58 of the Act, which applies to companies and not to individuals, rendering its application in this case inappropriate.

25. Therefore, the learned Special Judge noted that the issue before it was

whether a criminal court can impose a sentence less than the statutory minimum prescribed under law?

26. The learned counsel appearing on behalf of the accused persons before the learned Special Judge cited two precedents, i.e., ***Babloo vs. The State,* 2011 SCC OnLine Del 18**, where this Court had observed that a court could impose a sentence less than the prescribed minimum if adequate and special reasons were recorded. Reliance was also placed upon ***Mohd. Imran Khan v. State (Govt. of NCT of Delhi),* (2011) 10 SCC 192**, which reaffirmed that the court could impose a sentence less than the prescribed minimum, provided it recorded special reasons for doing so.

27. The learned Special Judge, after reviewing the facts, held that the learned Trial Court had exercised its discretion to impose a lenient sentence based on the long duration of the trial (sixteen years), the senior citizen status of some of the accused persons, and their voluntary guilty pleas, which had saved the Court's time. The learned Special Judge acknowledged the existence of special reasons for a lenient approach; however, it held that learned Trial Court had erred by imposing only a fine without awarding any substantial punishment.

28. Taking into consideration the aforesaid facts and circumstances, learned Special Judge modified the sentence, directing that the accused persons be sentenced to the period already undergone in jail and a fine of Rs. 20,000 each. In the event of non-payment of the fine, the accused would undergo simple imprisonment for three months. Further, for accused Mohd. Ashraf Mir, who had not been arrested and had not spent any time in jail, the

Court considered his advanced age (75 years) and health conditions, which could cause him mental and psychological trauma if imprisoned. Consequently, he was directed to serve his sentence through a TRC (to be presented before the Trial Court within 15 days) and to pay the outstanding fine.

29. Taking into consideration the above, the issue for determination before this Court is whether the accused persons in the present case have been rightly awarded the sentence considering the minimum threshold under the Act?

30. Before delving into the case at hand, this Court deems it appropriate to refer to the settled position of law *qua* the imposition of minimum sentence considering the mandatory statutory sentence under the Act.

31. In ***Vikram Das (Supra),*** the Hon'ble Supreme Court observed as under with respect to the principle of awarding sentence less than the minimum sentence and the extent of impressibility. The relevant portion of the same is as under:

> ***6.*** *In State v. Ratan Lal Arora [State v. Ratan Lal Arora, (2004) 4 SCC 590 : 2004 SCC (Cri) 1353] , this Court was considering the grant of benefit of Probation of the Offenders Act, 1958 [Probation Act] to a convict of the offences under the Prevention of Corruption Act, 1988 [Corruption Act] . It was held that in cases where an enactment enacted after the Probation Act prescribes minimum sentence of imprisonment, the provisions of the Probation Act cannot be invoked. The Court held as under : (SCC p. 596, para 12)*
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> *"12. That apart, Section 7 as well as Section 13 of the Act provide for a minimum sentence of six months and one*

year respectively in addition to the maximum sentences as well as imposition of fine. Section 28 further stipulates that the provisions of the Act shall be in addition to and not in derogation of any other law for the time being in force. In CCE v. Bahubali [CCE v. Bahubali, (1979) 2 SCC 279 : 1979 SCC (Cri) 447] while dealing with Rule 126-P(2)(ii) of the Defence of India Rules which prescribed a minimum sentence and Section 43 of the Defence of India Act, 1962 almost similar to the purport enshrined in Section 28 of the Act in the context of a claim for granting relief under the Probation Act, this Court observed that in cases where a specific enactment enacted after the Probation Act prescribes a minimum sentence of imprisonment, the provisions of the Probation Act cannot be invoked if the special Act contains any provision to enforce the same without reference to any other Act containing a provision, in derogation of the special enactment, there is no scope for extending the benefit of the Probation Act to the accused."

7. *In Mohd. Hashim v. State of U.P. [Mohd. Hashim v. State of U.P., (2017) 2 SCC 198 : (2017) 1 SCC (Cri) 698] , the question examined was in relation to minimum sentence provided for an offence under Section 4 of the Dowry Prohibition Act, 1961 [Act of 1961] , providing for minimum sentence of six months. It was held that benefit of the Probation Act cannot be extended where minimum sentence is provided. The Court held as under : (SCC pp. 207 & 209, paras 19 & 24)……*

8. *In view of the aforesaid judgments that where minimum sentence is provided for, the court cannot impose less than the minimum sentence. It is also held that the provisions of Article 142 of the Constitution cannot be resorted to, to impose sentence less than the minimum sentence.*

9. *The conviction has not been disputed by the respondent*

before the High Court as the quantum of punishment alone was disputed. Thus, the High Court could not award sentence less than the minimum sentence contemplated by the statute in view of the judgments referred to above.

32. Perusal of the above states that where a special statute prescribes a mandatory minimum sentence of imprisonment, the provisions of the Probation Act or Section 360 of the CrPC, which provides for leniency, cannot be invoked.

33. While relying upon one of its earlier judgments passed in ***State v. Ratan Lal Arora,* (2004) 4 SCC 590**, the Hon'ble Court stated that in the said judgment, the Court considered whether the benefit of the Probation Act could be extended to an accused convicted under the Prevention of Corruption Act, 1988, which prescribes a minimum sentence. It was held that since the latter-enacted special statute mandates a minimum term of imprisonment, the benefit of probation cannot be granted. Further, reliance was placed on ***CCE v. Bahubali,* (1979) 2 SCC 279**, where it was observed that when a special enactment prescribes a minimum sentence, and there exists a statutory provision for its enforcement without reference to any other general law, the benefit of the Probation Act cannot be extended.

34. Accordingly, it was held that when a statute prescribes a minimum sentence, the courts do not have discretion to impose a lesser sentence. Moreover, it was categorically held that even Article 142 of the Constitution, which empowers the Hon'ble Supreme Court to pass orders for complete justice, cannot be invoked to reduce the sentence below the statutorily

prescribed minimum.

35. This Court, having meticulously examined the material on record and the settled position of law, is of the considered view that the learned Special Judge has committed a grave legal error in awarding a sentence lesser than the minimum prescribed under the Act. It is a settled principle of law that where a statute prescribes a mandatory minimum sentence, the courts do not have the discretion to impose a lesser sentence based on mitigating factors alone.

36. While this Court acknowledges and is conscious of the mitigating factors considered by the learned Special Judge, including the advanced age of the accused persons, the protracted trial spanning sixteen years, and their voluntary guilty pleas, it is imperative to reiterate that such considerations cannot override the clear legislative mandate.

37. The very object of imposing a minimum sentence is to ensure uniformity and deterrence, particularly in offences that affect the larger public interest and environmental preservation.

38. The fundamental principle of statutory interpretation, as expounded in numerous judicial pronouncements, dictates that where the words of a statute are clear and unambiguous, courts must give effect to the legislative mandate without adding or subtracting from its express provisions.

39. The principle of positive law emphasizes that courts must adhere to the statutory framework laid down by the legislature. Regarding the present case, the deterrent nature of wildlife protection laws is aimed at curbing illegal trade in endangered species, and any dilution of the minimum

prescribed sentence would defeat the very purpose of the statute.

40. The accused persons in the present case have been convicted by the learned Trial Court under Section 120B of the IPC read with Sections 49/49(B)(1)/58/51 of the Act. In appeal, the learned Special Judge modified the order, thereby, sentencing the accused persons under Section 120B of the IPC read with Sections 49(B)(1)/51(1A) of the Act.

41. Section 49B (Chapter VA) of the Act provides for prohibition of dealings in trophies, animal articles, etc. derived from scheduled animals and states that no person shall commence or carry on the business. Further, Section 51(1A) of the Act states that any person who contravenes any provisions of Chapter VA shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to seven years and with fine which shall not be less than Rupees Ten Thousand.

42. Pertinently, Section 51(5) explicitly provides that nothing contained in Section 360 of the CrPC or the Probation Act shall apply to a person convicted of an offence with respect to an offence against any provision of Chapter VA, unless such person is under eighteen years of age. Thus, the said provision excludes the applicability of any leniency *qua* the accused persons convicted under the provisions mentioned above.

43. The offence committed by the accused persons falls squarely within the ambit of this statutory framework, warranting strict enforcement of the penal provisions.

44. The Act, being a special statute enacted for the protection of wildlife and the environment, categorically provides under Section 51(1A) of the Act

that the minimum punishment for contravention of Section 49(B)(1) shall not be less than three years, which may extend to seven years, along with a fine of not less than Rs. 10,000/-.

45. This Court is of the view that the learned Special Judge, in modifying the sentence imposed by the learned Trial Court, has effectively diluted the statutory requirement by awarding a punishment of the period already undergone in jail and a fine of Rs. 20,000/-, with a default sentence of three months.

46. This approach is in direct conflict with the law laid down by the Hon'ble Supreme Court in ***Vikram Das (Supra)***, wherein, it was categorically held that where a statute prescribes a minimum sentence, the court does not have discretion to impose a lesser sentence and that the provisions of the Probation Act, cannot be applied in such cases.

47. The reliance placed by the learned Special Judge on certain single-judge bench decisions of this Court, wherein sentences lesser than the statutory minimum was imposed, is wholly distinguishable and inapplicable to the facts of the present case.

48. The legislative intent behind prescribing a minimum sentence for offences under the Act must be given due regard. The Act was enacted with the objective of curbing wildlife-related offences that pose a serious threat to ecological balance and biodiversity.

49. The stringent provisions, including the exclusion of probationary relief, reflect the legislative determination to deter illegal trade and exploitation of endangered species. Granting a sentence lesser than the

prescribed minimum would frustrate the very object of the Act and set a dangerous precedent for future cases, thereby weakening the enforcement mechanism envisaged by the legislature.

50. In the present case, the accused persons have been found guilty of dealing in *Shahtoosh* shawls, which are derived from the Tibetan Antelope, a species listed under Schedule I of the Act. The Act categorically bans any trade or commerce in products derived from Schedule I animals.

51. The gravity of such offences cannot be undermined merely on the ground that the accused persons were not directly involved in the killing of the animals. The prohibition extends not only to poaching but also to possession, trade, and facilitation of trade in such articles. The learned Special Judge erred in granting undue leniency by overlooking this crucial aspect of the offence.

52. Furthermore, the contention that the accused persons were misled into pleading guilty under the impression that a lenient view would be taken does not hold merit as the issue before this Court is only about the sentencing and not the conviction. A guilty plea, while relevant for sentencing considerations, does not confer a right upon the accused to seek a punishment lesser than what is mandated by law.

53. It is also relevant to mention here that the learned Special Judge, while modifying the order passed by the learned Trial Court on sentence held that the Court concerned erred by awarding merely the fine and by not avoiding any substantial punishment and by holding the same, the learned Special Judge awarded ‘sentence already undergone’.

54. With respect to the same, this Court is of the view that the learned Special Judge has failed to take into the account the fact that all the accused persons were granted bail by the Court Concerned and none of the accused persons have undergone imprisonment of more than two days, therefore, the award of punishment of the period already undergone in jail is bad in law on the face of it.

55. Further, the learned Special Judge committed an error of law by failing to take into consideration the statuary provisions of the act and the settled position of law by the Hon'ble Supreme Court as per which the Courts are not empowered, while dealing with an offense under the special statute, to take any lenient view. Therefore, this Court is inclined to set aside this finding of the learned Special Judge.

56. The jurisprudence emerging from the decisions establishes that in cases where a minimum sentence is prescribed by law, courts cannot deviate from the legislative mandate to impose a lesser sentence or grant the benefit of probation.

57. Further, when the conviction is not disputed and only the quantum of punishment is under challenge, this Court or any other appellate forum cannot reduce the sentence below the statutory minimum, in light of the binding precedents laid down by the Hon'ble Supreme Court.

58. In view of the aforesaid discussions on facts as well as law, this Court is of the view that the instant matter is a fit case to exercise its discretion under the revisional jurisdiction in light of the aforesaid irregularities in applying the settled law and the statutory provisions of the Act.

59. Considering the same, the impugned judgment dated 22nd July, 2022, passed by the learned Special Judge (PC Act), Rouse Avenue District Courts, New Delhi, in Criminal Appeal No. 2/2022 is set aside and the matter is remanded back to the learned Special Judge to pass an order on sentence, afresh, after taking into account the observations made hereinabove, the mitigating factors of the accused persons and the settled position of law, expeditiously, preferably within three months.

60. It is made clear that this Court has not gone into the merits/quantum of the sentence awarded to the accused persons.

61. Accordingly, the instant petition is allowed and stands disposed of along with the pending applications, if any.

62. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

MARCH 4, 2025
rk/ryp/kj

Click here to check corrigendum, if any