



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

% Date of Decision: 23.07.2025

+ **CRL.A. 1174/2017, CRL.M.A. 22236/2022, CRL.M.A. 22237/2022,**
CRL.M.A. 1855/2023, CRL.M.A. 30250/2024 and
CRL.M.A. 10338/2025

RAJ KUMAR

.....Appellant

Through: Mr.Saurabh Kansal, Ms.Pallavi S.
Kansal, Mr.Raghav Vij and Mr.Pratham Malik,
Advocates

versus

STATE

.....Respondent

Through: Mr.Pradeep Gahalot, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of present appeal, the appellant seeks to assail the judgement of conviction dated 27.10.2017 in Session Case No.58740/2016 passed by ASJ, Rohini Courts, Delhi in the case arising out of FIR No.811/2015 vide which he has been convicted under Section 392/397 IPC and Section 25 of the Arms Act.

Vide order on sentence dated 02.11.2017, he was directed to undergo rigorous imprisonment for a period of 7 years for the offence punishable under Section 392/397 IPC alongwith payment of fine of Rs.10,000/-, in default whereof he was directed to further undergo simple imprisonment for a period of 3 months. He was also sentenced to rigorous imprisonment for a period of 1 year for the offence under Section 25 Arms Act. The benefit of Section 428 Cr.P.C was also given to the appellant.



2. Briefly stated, the facts of the present case are that on 09.09.2015, at about 12:42 AM, an information, vide DD No. 5A, was received regarding the apprehension of one person having one pistol at Outer Ring Road, near DTC Bus Stop, Jahangirpuri, Delhi. The police officials namely, Ct. *Sandeep* along with Ct. *Suresh* reached at the spot and met the complainant/*Anuj*, recovered the said pistol and recorded the statement of complainant based on which the present FIR was registered. In the FIR, he stated that on the night of 09.09.2015, while the complainant was traveling from Hapur to Shahabad Dairy, the truck of the complainant ran out of fuel and he stopped near the DTC Bus Stop at Outer Ring Road, Jahangirpuri. At around 12:30 AM, three men arrived on a motorcycle, two of them approached the complainant, and threatened the complainant to handover all his belongings, and on refusal to the same by the complainant, the third accused i.e., the appellant herein, pointed the pistol towards the complainant to put the complainant under fear. The complainant, consequently handed over Rs. 5,000 and a black Nokia mobile phone to the co-accused persons. Shortly after, two police officers arrived on a yellow motorcycle and all the accused persons tried to flee away from the spot on the motorcycle, however the appellant was apprehended by the two police officers

3. The Trial Court framed charges vide order dated 17.10.2016, under sections 392/34 IPC and Section 397 IPC and Section 25 Arms Act.

4. In trial, a total of 8 witnesses were cited by the prosecution to prove its case. The complainant/victim was examined as PW1. ASI Sunil Dutt as PW2 was examined for verification of DD no. 5A and *rukka* received through Ct. *Suresh*, who was examined as PW6. The other witnesses were formal in nature, who deposed relating to various aspects of the



investigation. On the other hand, the appellant, in his statement recorded under Section 313 Cr.P.C. claimed innocence and false implication.

5. Notably, a perusal of the impugned judgment and the record available shows that complainant/Anuj (PW-1) at the time of recording of his testimony duly identified the appellant as the person having possession of the pistol. He clearly stated that it was the appellant who put him under fear at gun point and took Rs.5000/- and a red colour Nokia mobile phone. The accused thereafter handed over money and phone to his accomplices. While appellant was nabbed at the spot, the other two accused managed to run away. The pistol was duly recovered from the possession of appellant and the testimony of the complainant is duly corroborated by the testimony of PW6/Ct Suresh Kumar, PW7/Ct Sandeep Chaudhary, and PW8/SI Suresh Chand, thereby indicating that appellant was present at the place of incident at the relevant date and time and the accused was apprehended and the pistol was thereafter recovered from his possession. Furthermore, the appellant failed to produce any valid permit or license authorizing him to possess the said weapon. Also, it was noted that the appellant has not alleged any ill will or animosity against the complainant or the attesting witnesses of recovery, but possession of such weapon has been established on record. The complainant did not identify the other accused/*Ravinder* as he was wearing a helmet at the time of incident.

From above and records, it is borne out that the appellant was the one who had made the complainant part with money and phone after he was put to fear at gun point. The appellant was arrested at the spot and though he refused to participate in TIP, he was duly identified by the complainant in trial. The testimony of the complainant has remained unshattered.



6. Considering the aforesaid and after going through the evidence on record as well as the impugned judgment, this Court, concurs with the findings of the Trial Court.

7. Learned counsel for the appellant submits that the appellant has been produced in custody. He, on instructions, submits that the appellant is not pressing the present case on merits. He further refers to the nominal roll dated 16.07.2025, which notes that appellant has undergone approximately entire substantive sentence as imposed under Section 397 IPC as on 15.07.2025. He, on instructions, prays that considering this undergone substantive sentence, he be released on the period already undergone by him and the fine imposed of Rs.10,000/- be reduced to Rs.5,000/-. In this regard, learned counsel submits that the appellant is presently working as *Factory Sahayak* in Jail and not only the appellant's jail conduct during his incarceration was satisfactory but also the appellant thereafter maintained good social and moral conduct. It is further stated that he faced trial for 8 years and that he is married having responsibility of his wife and one minor daughter. He is stated to be the sole bread earner.

8. Learned APP for the State submits that, as per the nominal roll, the appellant has undergone the sentence of 5 years 7 months and 12 days alongwith remission of 3 months and 10 days earned with unexpired portion of sentence being only 1 month and 8 days as on 15.07.2025. It is also submitted that though the appellant was also involved in similar case being convicted in FIR No.242/2015 registered under Sections 392/397/34 IPC at P.S. Adarsh Nagar. He however, has finished his substantive sentence in the said case and in the appeal preferred by him in said case being Crl Appeal 176/2017, the sentence of fine has been modified by this Court after



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considering his satisfactory jail conduct.

9. Accordingly, in the present case, the appellant's sentence for conviction under the aforementioned sections is reduced to the period already undergone by him. The sentence of fine is also modified to the extent that now the appellant shall pay a fine of Rs.5,000/- instead of Rs.10,000/-. In default of payment of fine, he shall undergo Simple Imprisonment for a period of 1 month.

10. In view of the above, the present appeal is disposed of alongwith the pending applications.

11. A copy of this order be communicated to the Trial Court as well as Jail Superintendent for information and necessary compliance.

MANOJ KUMAR OHRI
(JUDGE)

JULY 23, 2025

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