



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

% Date of Decision: 23.07.2025

+ **CRL.A. 176/2017**

RAJ KUMAR

.....Appellant

Through: Mr.Sumer Kumar Sethi, Advocates

versus

STATE

.....Respondent

Through: Mr.Pradeep Gahalot, APP for State with  
SI Sanchit

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**JUDGMENT (ORAL)**

1. By way of the present appeal, the appellant seeks to assail the judgement of conviction and order on sentence dated 18.01.2017, passed by ASJ, Rohini Courts, Delhi in the case arising out of FIR No.242/2015 registered under Sections 392/397/34 IPC at P.S. Adarsh Nagar in Session Case No.58807/2016.

Vide the order on sentence dated 18.01.2017, the appellant was directed to undergo rigorous imprisonment for a period of 8 years for the offence punishable under Section 397 IPC, alongwith payment of fine of Rs.2,500/-, in default whereof he was directed to further undergo rigorous imprisonment for a period of 3 months. The benefit of Section 428 Cr.P.C. was provided to the appellant.

2. Briefly stated, the facts of the present case are that as per the FIR, on 10.04.2015 at around 4:00 PM, the victim was intercepted by two individuals, one of them is the appellant herein, while he was returning after



collecting approximately Rs. 4,80,000/- from various customers in the Swaroop Nagar area. The appellant along with the co-accused namely *Prem*, overtook the two-wheeler scooter of the victim, forced him to stop near Lawrence Road, and at gunpoint, robbed him of the bag containing the aforesaid amount, leading to the registration of the present FIR No. 242/15 at PS Adarsh Nagar.

3. The Trial Court framed charges vide order dated 18.02.2016 under sections 392/397/34 IPC against the appellant, to which he pleaded not guilty and claimed trial.

4. In trial, a total of 7 witnesses were cited by the prosecution to prove its case. The complainant/*Vikas Chawla* was examined as PW5. ASI *Suresh Chander* as PW3, arrested appellant in case FIR no. 811/15 at PS Jahangirpuri. ASI *Raju Yadav* as PW7, further investigation of the present case was marked to him. The other witnesses 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 the testimony of the complainant is found to be credible and genuine and the defence failed to prove otherwise. Further, the complainant has duly identified the appellant during the judicial TIP conducted on 14.10.2015. During his testimony, he positively identified the appellant as the one who was sitting on the pillion seat of the motorcycle by the other accused and had shown the Gun and robbed him of the money. Further, it is not the case of the appellant that he was previously known to complainant or there was any kind of animosity between the complainant and accused



persons in order to crystallise the intent of the complainant so as to falsely implicate him in the present case. The testimony of complainant remained unimpeached and is found to be credible and reliable.

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. At this stage, learned counsel, on instructions, submits that the appellant is not pressing the present case on merits. He further refers to the nominal roll in FIR No.242/2015 registered under Sections 392/397/34 IPC at PS Adarsh Nagar to submit that the appellant has undergone entire substantive sentence imposed under Section 397 IPC as on 25.10.2022 and presently, he is undergoing sentence in another FIR No.811/2015 registered under Section 392 read with 397 IPC and Section 25 Arms Act at PS Jahangir Puri, Delhi and in said case, only 1 month sentence remains to be served. His appeal in said case being CrI. Appeal 126/2017 is also disposed of by way of a separate order passed today.

He, on instructions, prays that having undergone the entire substantive sentence, the fine imposed of Rs.2,500/- as well as default sentence in lieu thereof be reduced. 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 is satisfactory, but also, the appellant thereafter has 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.

Learned APP, states on instructions, that though the appellant stands



2025:DHC:6105



convicted in another case, he has undergone entire substantive sentence in present case. His conduct in jail is also reported to be satisfactory.

8. Accordingly, while maintaining conviction, the appellant's sentence of fine is modified to the extent that he shall pay a fine of Rs.1,000/- instead of Rs.2,500/-. In default of payment of fine, he shall undergo Simple Imprisonment for a period of 15 days.

9. In view of the above, the present appeal is disposed of.

10. A copy of this order be communicated to the Trial Court as well as Jail Superintendent.

**MANOJ KUMAR OHRI**  
**(JUDGE)**

**JULY 23, 2025**

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