

(2010) 08 DEL CK 0112
In the Delhi High Court
Case No : Criminal A. 734 and 854 of 2008

Mohd. Taqi

APPELLANT

Vs

State
 Mohd. Noor and Mohd. Shakir Vs The State NCT
of Delhi

RESPONDENT

Date of Decision : 19-08-2010

Acts Referred:

Arms Act, 1959 — Section 27
Penal Code, 1860 (IPC) — Section 371, 393, 394

Citation : (2010) 08 DEL CK 0112

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : K.B. Anley, M. Shamikh, in Criminal A. 734/2008, Wills Mathews and D.K. Tiwari, in Criminal A. 854/2008, for the Appellant; Arvind Kr. Gupta, APP., for the Respondent

Judgement

Sanjiv Khanna, J.—After some hearing learned Counsel for the appellants have restricted their submissions to the quantum of sentence. The two appellants have been convicted under Sections 393 and 394 of Indian Penal Code (hereinafter referred to as IPC). The appellant, Mohd. Noor was caught at the spot on 4th November, 2004 at about 8.30 a.m. while he along with other co-accused trying to rob PW-1, Mr. Vinod Maan, the complainant, who was going in a rickshaw. Mohd. Noor had shown knife to PW-1, Mr. Vinod Maan and tried to snatch the gold chain, which he was wearing. PW-1, Mr. Vinod Maan had stated that he raised alarm. In the meanwhile a motorcyclist came and the two appellants ran away. The motorcyclist apprehended Mohd. Noor but the other accused Mohd. Taqi managed to run away. The motorcyclist PW-4, ASI Mukut Lal has corroborated and reiterated the facts stated by PW-1, Mr. Vinod Maan. Police officers PW-2, Constable Lokender Singh and PW-9, SI Kirpal have also supported the prosecution case and proved the same.

2. Appellant Mohd. Taqi was arrested subsequently on 11th November, 2004. He had refused to join TIP proceedings and had stated that he had already been

shown to the witnesses in the police station.

3. In view of the evidence available on records, it is held that the learned trial court has rightly convicted the accused persons under Sections 393 and 394 IPC.

4. On the question of sentence, it is pointed out that the offence in question relates to year 2004.

5. Appellant Mohd. Taqi has already undergone sentence of more than 2 years and 5 months including the remission period. It is pointed that the accused Mohd. Taqi is suffering from tuberculosis, which he contracted while in jail. Mohd. Taqi has been granted interim bail by this Court for a period of three weeks. He is under anti-tubercular treatment with effect from 24th April, 2010, after referral was made by the Central Jail dispensary.

6. As per the nominal roll, Mohd. Taqi was also an accused in FIR No. 452/2007 u/s 371 IPC and Section 27 of the Arms Act. The appellant, however, has placed on record certified copy of the order dated 16th August, 2010, by which the proceedings have been dropped and the appellant has been acquitted of the charges u/s 371 IPC and Section 27 of the Arms Act in the said case. It is stated the appellant Mohd. Taqi was 19 years old at the time of the commission of offence.

7. In view of the aforesaid facts, the sentence of the appellant Mohd. Taqi is reduced to the period already undergone by him but the fine is increased to Rs. 10,000/- each for offences under Sections 393 and 394 IPC. In case of default in payment of fine, the appellant Mohd. Taqi will undergo simple imprisonment of six months.

8. Appellant Mohd. Noor, it is pointed out has already undergone sentence of 2 years and 11 months including the remission period. Learned Counsel appearing for the appellant Mohd. Noor has drawn my attention to the injuries suffered by PW-1, Mr. Vinod Maan. It is pointed out that PW-1, Mr. Vinod Maan was discharged from the hospital within 5 to 10 minutes. It is also stated that the appellant is not involved in any other criminal case. This is the one and the last case till now. It is pointed out that the appellant was granted bail during the trial and throughout there has been no allegation against the appellant that he was indulging in wrongful or criminal activities. Accordingly, the sentence awarded to the appellant Mohd. Noor is reduced to the period already undergone by him. However, the fine is increased to Rs. 10,000/- each for the offences under Sections 393 and 394 IPC. In default of payment of fine, the appellant Mohd. Noor shall undergo simple imprisonment of 6 months. The appeals are accordingly disposed of. Copy of this order will be sent to the trial court for deposit of fine.

Dasti.