

Court No. - 29

Case :- CRIMINAL APPEAL No. - 1599 of 2005

Appellant :- Lalta

Respondent :- State of U.P.

Counsel for Appellant :- Abhai Srivastava

Counsel for Respondent :- Govt. Advocate

Hon'ble Mrs. Renu Agarwal,J.

Matter is taken up. None appeared for the appellant to press this appeal, learned A.G.A for the State is present.

The present criminal appeal under Section 374 (2) Cr.P.C. has been preferred against the judgment and order dated 18.10.2005 passed by Additional Sessions Judge, Court No. 8, Sitapur in Sessions Trial No. 37 of 2004, whereby the appellant has been convicted under Section 376 IPC and sentenced to undergo rigorous imprisonment for seven year along with fine of Rs. 5,000/- and in default of payment of fine to undergo two years simple imprisonment and one year rigorous imprisonment under Section 506 IPC.

It transpires from the report of Chief Judicial Magistrate, Sitapur dated 26.07.2023 that the appellant was admitted to District Jail, Sitapur on 28.03.2023 and he was convicted with imprisonment of seven years and fine of Rs. 5,000/- and in default of payment of fine simple imprisonment of two years. It is further reported that the appellant has been released from jail on 28.02.2009 after serving the complete sentence and also

depositing the fine. Hence, the appellant has served out total period of imprisonment as per report.

I have heard learned A.G.A and perused the record.

There is nothing on record to show that there is any infirmity in the judgment of learned trial court. The trial court found that the victim was 13 years of age on the basis of radiological report, injuries were also found on the private parts of the victim prosecutrix. The prosecution witnessess P.W.1 and P.W.-2 prosecutrix has proved the incident and stated on oath that she was kidnapped by the appellant on the point of knife. She has also reiterated her version in her statement recorded under Section 164 Cr.P.C. before the Magistrate.

The appellant could not disprove the evidence produced by the prosecution witnessess except the plea of enmity which he could not substantiate during trial. Slippers of the accused appellant were also found on the place of occurrence by the Investigating Officer. Trouser (Salwar) of the victim were also found on the place of occurrence, hence, prosecution proved the case on the basis of oral evidence as well as medical evidence and pathological evidence. The defence of the accused was not substantiated and learned trial court disbelieved that he was implicated in the case just because of enmity and no other defence is taken by the appellant at the time of trial as well as at

the time of appeal, hence, the order of the learned trial court suffers from no illegality, irregularity or cause miscarriage of justice.

Moreover, the appellant was not released on bail during trial as well as during appeal and he has served out total punishment awarded by learned trial court, hence, the appeal is liable to be dismissed and is accordingly dismissed.

Office is directed to return the lower court record, if any available, along with a copy of this order to the learned trial court concerned for necessary information.

(Renu Agarwal,J.)

Order Date :- 16.11.2023

Nadeem