

\$~R-36

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

+ CRL.A.668/2004 & CrI.M.A.7639/2014

DECIDED ON : MARCH 26, 2015

AWADH

..... Appellant

Through : None.

versus

THE STATE OF DELHI

..... Respondent

Through : Ms.Kusum Dhalla, APP for State.

**CORAM:
HON'BLE MR. JUSTICE S.P.GARG**

S.P.GARG, J. (ORAL)

1. Present appeal has been preferred by the appellant-Awadh to challenge the legality and correctness of a judgment dated 02.09.2003 of learned Additional Sessions Judge in Sessions Case No.116A/2003 arising out of FIR No.499/02 under Sections 363/366/376 IPC registered at Police Station Sangam Vihar, Delhi by which he was held guilty for committing offence under Sections 363/366 and 376 IPC. By an order dated 09.09.2003, he was awarded rigorous imprisonment for seven years with fine of ₹500/- under Section 376 IPC and RI for three years with fine ₹200/- under Section

each under Sections 363/366 IPC. The sentences were to operate concurrently.

2. Allegations against the appellant as reflected in the Charge-sheet were that on 2.10.2002 Chander Pal lodged a complaint with the police informing that her daughter 'X' (assumed name), aged 15 years, had gone missing on 19.09.2002. Complainant suspected involvement of Awadh and Vijay in the incident. First Information Report under Section 366 IPC was recorded on 20.10.2002. 'X' was recovered along with the appellant-Awadh. Her statement under Section 161 Cr.P.C. was recorded. Sections 363/376 were added. The accused was arrested. Statement of witnesses conversant with the facts were recorded. After completion of investigation, a charge-sheet was filed against the appellant for commission of offences punishable under Sections 363/366/376 IPC. 'X' was less than 16 years of age at the time of commission of the offence. The statements of the witnesses well conversant with the facts were recorded. After completion of investigation, a Charge-sheet under Sections 363/366/376 IPC was submitted against the appellant. The prosecution examined 10 witnesses to establish the appellant's guilt. In the statement recorded under Section 313 Cr.P.C, the appellant denied his involvement in the offence. The trial resulted in his conviction under

Sections 363/366 and 376 IPC. Being aggrieved and dissatisfied, the appeal has been preferred by the appellant.

3. The appeal was admitted on 23.02.2015. By an order dated 17.08.2006 the remaining sentence of the appellant was suspended and he was released on bail on his executing a personal bond in the sum of ₹25,000/- with one surety in the like amount. When the appeal was listed for hearing on 20.01.2015, none appeared on behalf of the appellant. Bailable warrants for the appearance of the appellant were issued and fresh Nominal Roll of the appellant was also called.

4. Nominal Roll dated 16.03.2015 reveals that the appellant has already been released on 05.04.2008 after he served out the substantive sentence awarded to him. The fine has been paid by him in Jail.

5. Since the appellant has already completed the substantive sentence awarded to him and has deposited the fine imposed, the appeal preferred by the appellant has become infructuous. None has appeared on behalf of the appellant to address arguments on merits. Even after being released on 05.04.2008, the appellant did not appear before the court to get the appeal decided on merits. It seems that the appellant is not interested to pursue the appeal. The appeal is dismissed as infructuous. It is, however, made clear

that if the appellant appears before the Court within a reasonable time to get the appeal decided on merits, his prayer would be considered favourably. Pending application (if any) also stands disposed of.

6. Trial court record (if any) be sent back with the copy of this order.
7. Intimation be sent to the Jail Superintendent.

(S.P.GARG)
JUDGE

MARCH 26, 2015/sa