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

+ **CRL.A.701/2004**

DECIDED ON : FEBRUARY 24, 2015

HIRA LAL

..... Appellant

Through : None.

versus

STATE

..... Respondent

Through : Ms.Kusum Dhalla, APP for State.

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

S.P.GARG, J. (ORAL)

1. Office note reveals that report vide letter No. F3/SCJ.3/ASW/2015/373 dated 12.02.2015 is on record.
2. Present appeal has been preferred by the appellant-Hira Lal to challenge the legality and correctness of a judgment dated 30.07.2003 of learned Additional Sessions Judge in Sessions Case No.30/2001 arising out of FIR No.254/1999 under Section 451/376 IPC registered at P.S. Mayur Vihar, Delhi by which he was held guilty for committing offence punishable under Sections 376 IPC. By an order dated 31.07.2003, he was

awarded Rigorous Imprisonment for 7 years with fine of ₹2,500/- under Section 376 IPC.

2. Allegations against the appellant as reflected in the Charge-sheet were that on the night intervening 2/3-10.2009 at around 1:45 a.m. he committed rape upon the prosecutrix 'X' at Jhuggi No.21, Ravidass Camp, Chilla Village, Mayur Vihar, Delhi. The complaint was lodged with the police on 9.10.1999. The prosecutrix disclosed as to how and under what circumstances when her husband had left alongwith 'buggi bhaisa' for his work, the accused entered inside the house and sexually assaulted her. When she raised alarm, the accused threatened her. Neighbours collected and the accused was arrested. Call to PCR was made. She, however, did not disclose about the incident due to fear of her husband of being defamed and threat of the accused. During investigation, statements of the witnesses conversant with the facts were recorded. The prosecutrix was medically examined. After completion of investigation a charge-sheet was filed under Section 376 IPC. On the statement of the victim FIR under Section 376 Cr.P.C. was registered at Police Station Mayur Vihar. Her statement under Section 164 Cr.P.C. was recorded. The statements of the witnesses well conversant with the facts were recorded. After completion of investigation, a

Charge-sheet under Sections 376/451 IPC was submitted against the appellant. The prosecution examined 13 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 376 IPC. Being aggrieved and dissatisfied, the appeal has been preferred by the appellant.

3. The appeal was listed for hearing on 20.01.2015. When the file was taken up for hearing, none appeared on behalf of the appellant. Production warrants were ordered to be issued against him. Fresh Nominal Roll was also called.

4. Report received from the Superintendent Central Jail No.3, Tihar Jail bearing No.F3/SCJ.3/ASW/2015/373 dated 12/2/2015 reveals that the appellant has already been released on 24.10.2008 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 24.10.2008, 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.

6. Pending application (if any) also stands disposed of.
7. The date fixed in the matter i.e. 4th March, 2015 stands cancelled.
8. Trial court record (if any) be sent back with the copy of this order.
9. Intimation be sent to the Jail Superintendent.

(S.P.GARG)
JUDGE

FEBRUARY 24, 2015/sa