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

+ CRL.A. 810/2004

DECIDED ON : February 04, 2015

BHAGWAN DAS

..... 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 Bhagwan Das to challenge the legality and correctness of a judgment dated 03.02.2004 of learned Additional Sessions Judge in case FIR No.482/2000, P.S. S.N.Puri, Delhi by which he was held guilty for committing offence punishable under Sections 376/506 IPC. By an order dated 04.02.2004, he was awarded rigorous imprisonment for 7 years with fine of ₹1,000/- under Section 376 IPC and RI for six months with fine ₹100/- under Section 506 IPC.

2. Allegations against the appellant as reflected in the Charge-sheet were

that after the death of her mother 'X', aged about 12/13 years, lived with her step father and step brothers. They started committing rape with the prosecutrix. 'X' disclosed the fact to one Sunita, a social worker who brought it to the notice of Mrs.Faruqqi and Mrs.Nirmal Sharma of National Federation of Indian Woman. On the statement of the victim FIR under Section 376 Cr.P.C. was registered at Police Station S.N.Puri. 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 376/506 IPC was submitted against the appellant and co-convict. The prosecution examined 11 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 376/506 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. The Nominal Roll dated 29.01.2015 reveals that the appellant has

already been released on 12.12.2006 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 the arguments on merits. Even after being released on 12.12.2006, 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

FEBRUARY 04, 2015

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