

\$-R-61

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

DECIDED ON : 23rd FEBRUARY, 2015

+ **CRL.A. 421/2005**

MALA

..... Appellant

Through : None.

versus

STATE

..... Respondent

Through : Mr.Navin K.Jha, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.Garg, J. (Open Court)

1. The appellant – Mala impugns a judgment dated 29.03.2005 of learned Additional Sessions Judge in Sessions Case No.122/02 arising out of FIR No.229/2002 registered under Sections 365/368/376/342/323/109/34 IPC & Sections 3, 4, 5 & 6 ITP Act at PS Kamla Market by which she was held guilty for committing offences under Sections 368/109/376 IPC & Sections 4 & 5 ITP Act. By an order dated 31.03.2005, she was awarded RI for two years with fine ₹ 1,000/- under Section 4 ITP Act; RI for seven years with fine ₹ 5,000/- under

Section 109 read with Section 376 IPC and RI for five years with fine ₹ 1,000/- under Section 368 IPC. All the substantive sentences were to operate concurrently.

2. Allegations against the appellant and her associates were that they confined and concealed victims 'X', 'Y' and 'Z' at first floor of Kotha No.70, G.B.Road, Delhi with an intention to compel or force them to illicit intercourse. Before 24.12.2001, they had abetted the commission of rape on the victims by sending customers; running a brothel and living wholly or in part on their earnings and procuring these girls for prostitution.

3. As per charge-sheet, on 22.06.2002 'X' was lodged at Nirmal Chaya. In her statement, she implicated the appellant and her associates for pushing her in prostitution for consideration. 'X' and 'Y' were recovered from Kotha No.70, First floor on 24.12.2001 vide Daily Diary (DD) No.21A under Section 13 JJ Act. They were medically examined at JPN Hospital on 25.12.2001. 'X' was found aged around twenty years and 'Y' around nineteen years to twenty years. During investigation, statements of the witnesses conversant with the facts were recorded. The involvement of the appellant surfaced. She was arrested. After completion of investigation, a charge-sheet was filed against all of them including

Neelam @ Akhtar Begum and Meena @ Nirmala. They all were duly charged. The prosecution examined fourteen witnesses to establish their guilt. In 313 statement, the appellant denied her involvement in the crime and pleaded false implication. The trial resulted in her conviction as aforesaid.

4. Crl.M.B.No.1019/05 was filed by the appellant for suspension of sentence till the disposal of appeal. By an order dated 07.07.2006, remaining period of substantive sentence of the appellant was suspended on her furnishing a personal bond in the sum of ₹ 20,000/- with one surety in the like amount subject to deposit of fine.

5. When the process was issued for her appearance by an order dated 26.02.2010, she could not be served and the process was received back unexecuted. However, the record contains a report from Superintendent Jail placed before Ms.Santosh Snehi Mann, Spl. Judge, NDPS vide letter No.26/SCJ-6/ASW/2010/499 dated 01.11.2010 which reveals that the appellant has already been released from jail on 03.11.2008 after she served out the sentence and paid the fine of ₹ 3,115/- at jail gate. Apparently, she could not avail the benefit of suspension of sentence and served out the sentence awarded to her.

6. None has appeared on behalf of the appellant to pursue the appeal on merits despite her release from jail on 03.11.2008. She is not traceable. It appears that she is not interested to prosecute the appeal as it has become infructuous. The appeal stands disposed of as such.

7. It is, however, made clear that if the appellant appears within a reasonable time for disposal of appeal on merits, her request will be considered.

(S.P.GARG)
JUDGE

FEBRUARY 23, 2015 / *tr*