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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.A. 264/2015

MUNNI LAL & ORS.

..... Appellants

Through: Mr. Ankur Sood, Adv.
Appellants produced from jail.

versus

STATE

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Sandeep Kumar, P.S. Tilak
Marg.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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26.05.2015

Appellants have been convicted for having committed the offences under Sections 364/365/34 IPC and sentenced to undergo rigorous imprisonment for a period of seven years with fine of ₹2,000/- each and in default of payment of fine to undergo simple imprisonment for a period of six months for offence under Sections 364/34 IPC; sentenced to undergo rigorous imprisonment for a period of five years with fine of ₹2,000/- each and in default of payment of fine to undergo simple imprisonment for a period of one month for the offence under Section 365/34 IPC. Both the sentences have been directed to run concurrently. Benefit of Section 428 Cr.P.C. has also been accorded to the appellants.

Appellant nos. 1 and 2 are brothers; whereas appellant no. 3 is son of appellant no.1. In the charge-sheet Section 302 IPC was also added, however, appellants were discharged for this offence vide order dated 23rd September, 2004. Learned APP admits that the said order has attained finality.

Allegations against the appellants are that they had kidnapped one boy, namely, Raju who could not be traced out. Subsequently, a skeleton was recovered from the forest of Bulistapur behind DPS School, District Surajpur, Gautam Budh Nagar, Uttar Pradesh, which according to the prosecution was that of Raju. However, as per the DNA examination, said skeleton was concluded that of a female. For this reason, appellants were discharged of the offence under Section 302 IPC.

PW6 had last seen the appellants with Raju. His testimony has been found trustworthy by the trial court. Trial court has considered other evidences adduced before it and has concluded that appellants had kidnapped the boy. However, I need not to go into the merits and demerits of appeal since during the course of hearing learned counsel for the appellants has failed to point out material discrepancy or any illegality in the judgment, inasmuch as, has given up challenge to the conviction of

appellants on merits under Sections 364/365/34 IPC.

Learned counsel for the appellants has prayed for reduction of the sentences of the appellants to the period already undergone by them. Learned counsel submits that appellant no. 3 has completed sentence of more than five years; whereas appellant no. 2 has completed more than four years and ten months and appellant no. 1 has completed sentence of four and a half year. Appellant no.1 is aged about 65 years; whereas appellant nos. 2 and 3 are aged about 32 years. Their jail conduct is satisfactory.

Keeping in mind totality of the circumstances, while upholding the conviction of appellants under Sections 364/365/34 IPC, their sentences are reduced to the period already undergone by them. Appellants be released from jail, subject to their depositing fine, as imposed by the trial court, with the trial court within two weeks, if they are not wanted in any other case.

Appeal is disposed of in the above terms.

Dasti.

A.K. PATHAK, J.

MAY 26, 2015

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