

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

**RESERVED ON : 27th FEBRUARY, 2015
DECIDED ON : 21st MAY, 2015**

+ CRL.A. 596/2012

VED PAL

..... Appellant

**Through : Mr.Yogesh Swaroop, Advocate
with Mr.Dushyant Swaroop &
Mr.B.K.Roy, Advocates.**

VERSUS

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through : Ms.Kusum Dhalla, APP.

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

S.P.GARG, J.

1. The appellant – Ved Pal impugns a judgment dated 13.03.2012 of learned Addl. Sessions Judge in Sessions Case No. 44/11 arising out of FIR No. 97/10 PS Timarpur by which he was held guilty for committing offences punishable under Sections 342/368/376 IPC. By an order dated 15.03.2012, he was awarded RI for one year with fine ₹1,000/- under Section 342 IPC; SI for seven years with fine ₹ 10,000/-

each under Section 368 and 376 IPC. The sentences were to operate concurrently.

2. Simpy, Daljeet, Ranjana, Shakila and Ved Pal (the appellant) were arrested and sent for trial for committing various offences under Sections 365/366/368/370/376/493/498/120B IPC. The instant FIR was lodged on the complaint of PW-1 (Aruna) on 18.04.2010 at PS Timarpur. Statements of the witnesses conversant with the facts were recorded. The prosecutrix / victim 'X' (assumed name) was recovered at appellant's residence at his village Ludhana, Distt. Jind. 'X' was medically examined; she recorded her statement under Section 164 Cr.P.C. After completion of the investigation, a charge-sheet was filed against the above referred accused persons. Many accused persons could not be arrested during investigation.

3. Perusal of the Trial Court record reveals that charges under Sections 365/366/376 IPC against Simpy, Ranjana and Shakila @ Munni; under Sections 370/368 IPC against Daljeet and Ved Pal and under Section 120B IPC against Simpy, Daljeet, Ranjana, Shakila @ Munni and Ved Pal were framed. The prosecution examined sixteen witnesses to establish its case. In 313 statement, the contesting accused persons denied their involvement in the crime and pleaded false implication. After

hearing the rival contention of the parties and appreciating the evidence on record, the Trial Court, by the impugned judgment, acquitted Simpy, Daljeet, Ranjana and Shakila @ Munni of all the charges. Ved Pal was acquitted of the charge under Section 370 IPC but was convicted under Sections 342/368/376 IPC. It is relevant to note that State did not challenge the acquittal. Being aggrieved and dissatisfied, Ved Pal has filed the instant appeal.

4. I have heard the learned counsel for the parties and have examined the file minutely. Appellant's conviction is primarily based upon the testimonies of PW-1 (Aruna) and PW-2 'X'. It is alleged that 'X' was sold for a sum of ₹1,60,000/- by Ranjana and Simpy to one 'Langra'. The said 'Langra' further sold 'X' to Ved Pal (the appellant). Shabnam had introduced 'X' to Simpy and Rajana. As observed above, the prosecution failed to produce cogent evidence to prove its case against remaining accused persons. No evidence emerged on record if any payment of ₹1,60,000/- was paid, and if so, to whom. It is also not on record as to when the said payment was given and who received it. 'X' aged about 28 years was married to one Veeru with whom she had strained relations. Admittedly, 'X' was introduced by one Shabnam, Shakila's sister to Simpy and Ranjana, to the knowledge of PW-1 (Aruna)

when she (Shabnam) promised to get a job for 'X' for ₹5,000/- per month. PW-1 (Aruna) and PW-2 (X) categorically failed to identify Simpy and Ranjana in the Court and completely exonerated them. PW-1 (Aruna) did not meet 'Langra' to whom X's custody was handed over by the said ladies for a sum of ₹1,60,000/-. 'Langra' could not be arrested during investigation. PW-2 'X' disclosed that Ved Pal and Daljeet took her from the residence of 'Langra' to their village. She was not aware if any payment was made to 'Langra' by Ved Pal or Daljeet. Nothing is on record to show if at any stage 'X' raised alarm or declined to go along with Ved Pal and Daljeet.

5. Admitted position is that 'X' lived at the residence of Ved Pal for about five months. At no stage, she lodged any complaint with anyone about her alleged illegal confinement there. PW-1 (Aruna) did not attempt to contact her for long five months. She allegedly picked up a quarrel with Shabnam and Shakila for not providing her X's contact number. However, she did not lodge any complaint with the police to find out X's whereabouts. She admitted in her statement that Shabnam took her to the appellant's house in the village and she met him, his two brothers and one old lady there; she also met 'X' there. It is alleged that when she requested the appellant and his family members to allow her to

take 'X' with her, they picked up a quarrel and asked them to pay ₹1,60,000/- first and then to take away 'X'. She, her sister and Shabnam came back to Delhi. However, neither at the appellant's village nor at Delhi PW-1 lodged any complaint soon after return. In the instant complaint Ex.PW-1/A which is a typed complaint in English, PW-1 (Aruna) did not reveal if she had met 'X' at the appellant's village 4 or 5 days before. She feigned ignorance about X's whereabouts and urged the police to trace her. The delay in lodging the complaint has remained unexplained.

6. It has come on record that 'X' lived with the appellant in his house in the village for number of months. She used to do household work during her stay there. She even used to go in agricultural fields. When PW-1 (Aruna) along with Shabnam and her sister went at appellant's house, she was available there. Even after PW-1's return to Delhi after visiting her, she continued to stay there without any objection. It was claimed that a marriage had taken place with the appellant. In her statement under Section 164 Cr.P.C., 'X' did not state if she was forcibly raped against her wishes by Ved Pal, Daljeet and one Sadhu. However, in her Court statement, she made vital improvements and implicated Daljeet and Sadhu for committing rape upon her. In the cross-examination, she

admitted that she had not stated in her statement (Ex.PW-2/DA) that Ved Pal and Daljeet had brought her from the residence of 'Langra'. She admitted that during her stay with the appellant, she used to perform all household chores which were commonly performed by women in the village. At no stage, 'X' lodged complaint with the police for her forcible detention against her wishes. It appears that X's stay with the appellant at his residence was with her free consent and was never objected to by her and her sister PW-1 (Aruna). The appellant himself seems to be a victim when on the pretext to perform marriage he was allegedly forced to pay a certain amount. It is unclear to whom the amount was paid. It appears that the appellant was fleeced by the ladies to exploit him on the false promise of marriage with 'X'. Nothing is on record to show if during her stay 'X' was ever maltreated or beaten. In the MLC (Ex.PW-16/A), no external visible injuries were found on her person. The appellant lived at his native place with his family members including ladies. It cannot be inferred from the circumstances brought on record that 'X' was kept there against her wishes forcibly or was sexually assaulted.

7. Appellant's conviction based upon the wavering testimonies of PW-1 (Aruna) and PW-2 (X) cannot be sustained, especially when both of them have opted to give clean chit to Simpy and Ranjana. It smacks of

some nexus among 'X', her sister and the said ladies to trap innocent ones.

8. In the light of above discussion, the appeal is allowed. Conviction and sentence awarded by the Trial Court are set aside. The appellant be released forthwith if not required to be detained in any other criminal case.

9. Trial Court record be sent back forthwith with the copy of the order. A copy of the order be sent to the Superintendent Jail for information.

(S.P.GARG)
JUDGE

MAY 21, 2015 / *tr*