

\$-R-37

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

DECIDED ON : 6th OCTOBER, 2015

+ **CRL.A.970/2010 & CRL.M.B.12131/2013**

RAHUL SHARMA @ BADAL

..... Appellant

Through : Ms.Neha Singh, counsel for
Mr.Ajay Verma, Advocate with
appellant present in judicial
custody.

versus

STATE

..... Respondent

Through : Mr.Sanjeev Sabharwal, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.Garg, J. (Oral)

1. The instant appeal has been preferred by the appellant – Rahul Sharma @ Badal to impugn a judgment dated 01.06.2010 of learned Additional Sessions Judge in Sessions Case No.36/10 arising out of FIR No. 499/08 registered at PS Shakarpur by which he was convicted under Sections 363/366/376 IPC. By an order dated 04.06.2010, he was awarded RI for three years with fine ₹1,000/- under Section 363 IPC; RI for five years with fine ₹2,000/- under Section 366 IPC and and RI for

seven years with fine ₹3,000/- under Section 376 IPC. All the sentences were to operate concurrently.

2. Allegations against the appellant as reflected in the charge-sheet were that on 04.10.2008, he kidnapped the prosecutrix 'X' (assumed name), aged about 13 years, from the lawful guardianship of her parents, from a place near Laxmi Nagar Bank Colony Delhi and took her to DDA Flats No.4A, Mangal Bazar, and committed rape upon her. The prosecution examined thirteen witnesses to substantiate its case. In 313 Cr.P.C. statement, the appellant pleaded false implication. The trial resulted in his conviction as aforesaid.

3. The appellant preferred the instant appeal before this Court on 29.07.2010. By an order dated 18.02.2011, the matter was ordered to be listed in the category of 'Regular Matters' in Part-B of the list relating to 'Persons in custody' as per its own turn. When the matter was taken up for hearing on 22.09.2015, none appeared on behalf of the appellant to address arguments. Notice was ordered to be issued to Mr.Ajay Verma, Advocate, who represented the appellant on the previous date of hearing. Fresh nominal roll of the appellant was called along with issuance of production warrants for his appearance.

4. Fresh nominal roll has not yet been received. Appellant, who is present in judicial custody, states that he has already been released in this case after completion of sentence on 23.01.2015. The fine has already been deposited by him in jail. He is, however, in custody in another case FIR No.778/2015 under Sections 363/366/376(2) IPC registered at Police Station Shakarpur .

5. The appellant further states that since he has served out the sentence awarded to him and has deposited the fine, he is not interested to get the appeal decided on merits. The appeal has thus become infructuous and is disposed of as such. All pending application(s) also stand disposed of.

6. Trial Court record be sent back immediately with the copy of the order. A copy of the order be sent to the Superintendent Jail for necessary information and compliance.

(S.P.GARG)
JUDGE

OCTOBER 06, 2015 / *sa*