

\$-R-32

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

DECIDED ON : 5th OCTOBER, 2015

+ **CRL.A.924/2009**

DINESH KUMAR

..... Appellant

Through : None.

versus

THE 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 – Dinesh Kumar to impugn a judgment dated 15.09.2009 of learned Addl. Sessions Judge in Sessions Case No.36/08 arising out of FIR No. 310/08 PS Anand Vihar by which he was convicted under Sections 376/506 IPC. By an order dated 24.09.2009, he was awarded RI for seven years with fine ₹5,000/- under Section 376 IPC and RI for one year under Section 506 IPC. Both the sentences were to operate concurrently.

2. Allegations against the appellant as reflected in the charge-sheet were that on 06.06.2008, he committed rape upon the prosecutrix 'X' (assumed name), aged around fourteen years. The prosecution examined ten 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 26.11.2009. 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.Sumi Anand, Advocate, who represented the appellant on the previous date of hearing. Latest nominal roll of the appellant was called along with issuance of production warrants for his appearance.

4. Report bearing No.F.5/SCJ-4/AS(CT)/2015/8935 dated 30.09.2015 has been received from the Superintendent, Central Jail No.5, Tihar, New Delhi, to the effect that the appellant has already been released on 25.03.2014 upon completion of sentence awarded to him. The fine has already been deposited by him in jail.

5. Since the appellant has served out the sentence awarded to him and has deposited the fine, it appears that for that reason, he has not

contacted the counsel or the Court to get the appeal decided on merits. The appeal has thus become infructuous and is disposed of as such. It is, however, made clear that if the appellant appears within a reasonable time for disposal of appeal on merits, his request will be considered.

6. Trial Court record (if any) be sent back immediately with the copy of the order. A copy of the order be sent to the Superintendent Jail for information.

(S.P.GARG)
JUDGE

OCTOBER 05, 2015 / *tr*