

\$-R-38

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

DECIDED ON : 6th OCTOBER, 2015

+ **CRL.A.1385/2010**

SUBHASH Appellant

Through : None.

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 – Subhash to impugn a judgment dated 25.08.2010 of learned Additional Sessions Judge in Sessions Case No.92/09 arising out of FIR No. 285/09 registered at PS Burari by which he was convicted under Sections 376/511 IPC. By an order dated 28.08.2010, he was awarded RI for four years with fine ₹3,000/-.

2. Allegations against the appellant as reflected in the charge-sheet were that on 03.09.2009, he attempted to commit rape upon the prosecutrix 'X' (assumed name), aged around nine years. The prosecution

examined fourteen 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 30.11.2010. On 06.12.2010 the appeal was admitted. When the matter was taken for hearing on 23.09.2015, none appeared on behalf of the appellant to address arguments. Notice was ordered to be issued to his counsel, 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. Report bearing No.F.1/SCJ-1/AS(CT)/2015/3077 dated 01.10.2015 has been received from the Superintendent, Central Jail No.1, Tihar, New Delhi, to the effect that the appellant has already been released on 19.12.2012 after completion of sentence. 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 was 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. Superintendent Jail is directed to furnish comprehensive list of all such convicts who happen to be in custody in appeals related to the years 2007, 2014 and 2015 and appeals pending in this Court regarding offences related to sexual offences. It shall indicate the period already undergone by them in the respective cases pertaining to this Bench.

7. 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
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