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

DECIDED ON : 22nd SEPTEMBER, 2015

+ **CRL.A. 19/2012**

USHA Appellant

Through : Mr.Habibur Rahman, Advocate
along with appellant in person.

versus

STATE Respondent

Through : Mr.Amit Ahlawat, APP.

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

S.P.Garg, J. (Oral)

1. The appellant – Usha along with others was convicted for committing offences under Section 363 read with Section 368; 366/506; 376 read with Section 109 IPC by a judgment dated 05.05.2011 of learned Addl. Sessions Judge in Sessions Case No.52/2010 arising out of FIR No.226/2007 PS Gokulpuri. By an order dated 13.05.2011, she was sentenced to undergo various prison terms with fine.

2. Allegations against the appellant in the charge-sheet were that on 27.03.2007, she enticed the prosecutrix 'X' (assumed name) aged

around 13 years to marry her son Tinku. On 28.03.2007 at about 07.00 or 07.30 a.m. when 'X' had gone to market to purchase some eatables, the appellant met her on the way and after inducing her to her house. She administered some poisonous substance in the tea, as a result of which, 'X' became unconscious. On regaining senses, she found herself in village Issampur. It is pertinent to mention that in the village, both 'X' and Tinku performed marriage and thereafter, she lived at his house there. The marriage was registered at Registrar, Hindu Marriage, Chandausi, Distt. Moradabad (U.P.). Co-convict Tinku's plea in the trial was that 'X' was a consenting party.

3. After considering the rival contentions of the parties and on appreciation of the evidence on record, the Trial Court convicted the appellant and others for the offences mentioned above. Being aggrieved and dissatisfied, the appellant has challenged her conviction in appeal.

4. During the course of arguments, the appellant voluntarily opted not to challenge the findings of the Trial Court on conviction and prayed to release her for the period already undergone by her in this case. To this, learned Addl. Public Prosecutor has no objection.

5. Since the appellant has given up challenge to conviction voluntarily, it is affirmed / confirmed.

6. The appellant was sentenced to undergo RI for two years with fine ₹1,000/- under Section 363 IPC; RI for three years with fine ₹2,000/- under Section 366 read with Section 368 IPC; RI for two years under Section 506 IPC; and, RI for four years with fine ₹3,000/- under Section 376 read with Section 109 IPC. Substantive sentences were to operate concurrently. Nominal roll dated 28.02.2012 reveals that the appellant remained in custody for two years, nine months and seven days besides remission for two months and twenty-seven days as on 27.02.2012. She was enlarged on bail by this Court by an order dated 07.03.2012. It further reveals that the appellant has clean antecedents and is not involved in any other criminal case. Her overall jail conduct was satisfactory. Nothing has surfaced if after suspension of sentence, she indulged in any such criminal activity. Tinku and 'X' purportedly were in love and had eloped to perform marriage. Their marriage was registered with the Registrar. Nothing was found during investigation if any poisonous substance was administered to the prosecutrix as a result of which she became unconscious. The appellant was aged around 51 years. The accused persons implicated in the case were all related and members of one and the same family. Considering all these facts and circumstances of the case, Sentence Order is modified to the extent that the period

already undergone by the appellant shall be taken as substantive sentence. She shall, however, deposit the fine (if unpaid) imposed by the Trial Court within two weeks and in default of its non-payment shall suffer SI for one month.

7. The appeal stands disposed of in the above terms. Copy of the order be sent to the Trial Court. Intimation be sent to the Superintendent Jail.

(S.P.GARG)
JUDGE

SEPTEMBER 22, 2015 / *tr*