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

DECIDED ON : 13th OCTOBER, 2015

+ **CRL.A.1/2013**

BRIJESH KUMAR

..... Appellant

Through : Mr.M.L.Yadav , Advocate with
Mr.Lokesh Chandra, Advocate.

versus

STATE NCT OF DELHI

..... 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 – Brijesh Kumar to impugn a judgment dated 28.04.2012 of learned Addl. Sessions Judge in Sessions Case No.101/11 arising out of FIR No.145/11 PS Kapashera by which he was convicted under Sections 376/511 IPC. By an order dated 30.04.2012, he was awarded RI for four years with fine ₹5,000/-.

2. Allegations against the appellant as reflected in the charge-sheet were that he tried to commit rape upon the prosecutrix 'X' (assumed

name), aged around five - six 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 04.01.2013. Vide order dated 15.04.2013, the matter was ordered to be listed in the category of 'Regulars' on its own turn. When the matter was taken up for hearing on 07.10.2015, none appeared on behalf of the appellant to address arguments. Notice was ordered to be issued to his counsel. Fresh nominal roll of the appellant was called along with issuance of production warrants for his appearance.

4. Report bearing No.F.3/SCJ.3/AS(CT)/2015/2607 dated 12.10.2015 has been received from the Superintendent, Central Jail No.3, Tihar, New Delhi, to the effect that the appellant has already been released on 20.12.2014 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 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 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 13, 2015 / *tr*