

\$-R-33A

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

DECIDED ON : 2nd MARCH, 2016

+ **CRL.A.66/2014**

SANTOSH RAI

..... Appellant

Through : None.

versus

STATE

..... Respondent

Through : Mr.Amit Gupta, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.Garg, J. (Oral)

1. The instant appeal has been preferred by the appellant – Santosh Rai to impugn a judgment dated 18.09.2013 of learned Addl. Sessions Judge in Sessions Case No.52/13 arising out of FIR No. 120/13 PS Vijay Vihar by which he was convicted under Section 8 of POCSO Act. By an order dated 20.09.2013, he was awarded RI for three years under Section 8 of POCSO.

2. Allegations against the appellant as reflected in the charge-sheet were that on 05.03.2013 at about 07.00 p.m. in front of House No.L-

1/64, Budh Vihar Phase-I, Delhi, he sexually assaulted the prosecutrix 'X' (changed name), aged around 7 years. The prosecution examined eight 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 20.01.2014. When the matter was taken up for hearing on 05.01.2016, none appeared on behalf of the appellant to address arguments. Notice was ordered to be issued to Mr. Arabinda Nayak, Advocate, who represented the appellant on the previous dates of hearing. Production warrants were issued for the appellant's appearance before this Court.

4. Report bearing No.F.3/SCJ-3/AS(CT)/2016/216 dated 30.01.2016 has been received from the Superintendent, Central Jail No.3, Tihar, New Delhi, to the effect that the appellant has already been released from jail on 08.09.2015 after completion of sentence.

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

MARCH 02, 2016 / tr