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

+ CRL.A. 339/2015

STATE (NCT OF DELHI)

..... Appellant

Through : Mr. Mukesh Kumar, APP with SI  
Parkash PS Sadar Bazar.

versus

NARESH

..... Respondent

Through : Respondent in person.

**CORAM:**

**HON'BLE MR. JUSTICE A.K. PATHAK**

**ORDER**

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**03.11.2016**

Vide judgment dated 19<sup>th</sup> December, 2014, respondent has been convicted under Section 363 IPC and vide order dated 22<sup>nd</sup> December, 2014, he has been sentenced to undergo rigorous imprisonment of one year with fine of ₹1,000/- and in default of payment of fine, to undergo simple imprisonment of 10 days. Benefit of section 428 Cr.P.C. has also been given to respondent.

Petitioner state is aggrieved by the sentence awarded to respondent. It is submitted that sentence awarded to the respondent is on the lower side and same be enhanced. Learned additional public prosecutor submits that respondent had kidnapped a minor child aged about two and half years, thus no leniency ought to have been shown to respondent and maximum sentence

of seven years should have been awarded to him.

Respondent is a poor person aged about 40 years and is stated to be dependent on his mother, who is present in Court. They are not even in a position of engaging a lawyer. Mother of the respondent submits that respondent is presently not mentally stable and is unemployed. Respondent belongs to a poor family and could not even deposit fine of ₹1,000/-, thus, has undergone default sentence besides one year and has already been released from the jail. Trial court has noted that respondent has no past criminal record. All these factors have been taken note of by the Trial Court. Trial court has also noted that respondent was merely found sitting in TCR with the victim and had not caused any harm to her, inasmuch TCR was not his.

In the above facts, I do not find any reason to enhance the sentence and to send the respondent to jail again, at this stage, when he has already been released. His jail conduct had been satisfactory, which also indicates that he has reformed himself. Even otherwise, sentences awarded to him cannot be said to be inadequate in the facts and circumstances of this case.

Appeal is dismissed.

**A.K. PATHAK, J.**

**NOVEMBER 03, 2016/dk**