

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

Judgment Reserved on: August 08, 2016

% *Judgment Delivered on: August 17, 2016*

+ **CRL.A. 1313/2015**

POOJA

..... Appellant

Represented by: Ms. Saahila Lamba, Advocate.

Versus

STATE

..... Respondent

Represented by: Mr. Hirein Sharma, APP for the
State.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J.

1. Pooja challenges the impugned judgment dated July 29, 2013 convicting her for offences punishable under Sections 373/34, 368/34, 109 read with 376 IPC and the order on sentence dated July 31, 2013 directing her to undergo rigorous imprisonment for a period of seven years and to pay a fine of ₹10,000/- for offence punishable under Section 373/34 IPC and rigorous imprisonment for a period of seven years and to pay a fine of ₹10,000/- for offence punishable under Section 368/34 read with Section 109 and 376 IPC.

2. Assailing the conviction, Learned Counsel for Pooja contends that there are contradictions in the testimonies of PW-4 and PW-5. PW-4, during her cross examination was confronted with her statement made to the police wherein she did not tell to police that she met Saleem in the train and he

gave her water to drink after which she became unconscious. PW-5 stated that they were given to drink water on their way back from the house of Muslima and the lady who gave them water to drink was an old lady. It was also contended that Pooja herself was wrongfully detained, confined and forced into prostitution thus she herself was a victim at the hands of the main accused persons namely Meena and Mohd. Saleem.

3. Learned APP for the State on the other hand contends that apart from the two prosecutrix, Insp. Ved Singh Malik PW-6 is also a witness who conducted the raid at Laxmi Nagar and recovered the prosecutrix. Both the prosecutrix were minor at the time of the incident. There is no reason to doubt their testimony. The contradictions pointed out are minor in nature. PW-5 deposed against Pooja and stated that Pooja was the head of the kotha and she had also threatened her. Moreover, the two prosecutrix were recovered from the house of Pooja.

4. FIR No. 256/2004 was registered under Sections 323/328/342/365/373/376/109/34 IPC and Section 3/4/5/6 of Immoral Traffic (Prevention) Act, 1956 (in short 'ITP Act') at PS Shakarpur on the complaint of the prosecutrix M examined as PW-4 who deposed in the Court that she was residing at Muipunj Gram. One day, she along with prosecutrix A, PW-5 was going to visit her elder sister Muslima at Basan Diya by the train. In train, one girl gave them water and after drinking, both PW-4 and PW-5 became unconscious. When they regained consciousness, they found themselves in a house in Delhi. Pooja and Meena (declared as proclaimed offender) were present there who told PW-4 that she has been sold to them by Saleem and Raju. From that day, they were forced to do 'gande kaam'. They were forced to sleep with the customers who used to establish physical relations with

them against their wishes. They were not allowed to go outside or to make any call. She came to know that the house was at G.B. Road. At the time of incident her age was between 16 to 17 years. The aforesaid trauma went on for about one year. On their refusal, the accused persons used to beat them with Chaabuk (hunter). Whenever raid was conducted by the police, they were kept in small chambers constructed inside the house. Besides them, there were around 10-15 girls, who were also forced to indulge in prostitution. They were not given any money. She further stated that due to frequent raids by the police, she was shifted to the house of Pooja at Laxmi Nagar in order to conceal her. The other girls including PW-5 were left at G.B. Road. After 4-5 days of her stay at Laxmi Nagar, raid was conducted by the police and she was recovered.

5. PW-5 deposed in sync with the version of PW-4. PW-5 stated that she was threatened by Pooja that if she did not indulge into prostitution, then her sister and other family members will be brought to the kotha. She stated that Meena along with Pooja used to force her to indulge into prostitution. Pooja was the head/didi of the kotha. During her cross examination, she stated that she cannot identify Saleem. She denied the suggestion that Pooja was brought forcibly for the purpose of prostitution.

6. The contradiction in the testimony of PW-4 and PW-5 was only with respect to the fact how they were brought to the kotha. In their statement recorded by the police the two witnesses stated that they were brought to Delhi on the allurement of a job by Saleem. The witnesses have been duly confronted with this portion of their previous statement. This has no bearing on the role of Pooja qua whom both the witnesses have categorically deposed coupled with the version of police officer who recovered PW-4

from the house of Pooja and PW-5 from the Kotha. Furthermore, PW-5 and PW-6 have denied the suggestion that Pooja was herself a victim who was forced to indulge into prostitution. Further even if earlier pooja was forced into prostitution the same would not exonerate her from the offence of forcing other minor girls into prostitution.

7. I find no merit in the appeal. The judgment of conviction and the order on sentence are upheld.
8. Appeal is dismissed. Appellant will undergo the remaining sentence.
9. Copy of this order be sent to Superintendent Central Jail Tihar for updation of the Jail record.
10. TCR be returned.

(MUKTA GUPTA)
JUDGE

AUGUST 17, 2016
‘vn’