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IN THE HIGH COURT OF DELHI AT NEW DELHI

DECIDED ON : MAY 23, 2017.

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CRL.A. 702/2003

SUMA N

..... Appellant

Through None.

versus

STATE

..... Respondent

Through Mr. Amit Gupta, APP
SI Naresh Kumar PS-Kamla Market

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

S.P.GARG, J. (ORAL)

1. Aggrieved by a judgment dated 19.08.2003 of learned Additional Sessions Judge in Sessions Case No.30/2002 arising out of FIR No.461/2001 at Police Station Kamla Market whereby the appellant was held guilty for committing offences punishable under Sections 368 read with Sections 366 IPC and Section 3, 4 & 5 ITP Act; the instant appeal has been preferred by her. By an order dated 23.8.2003, she was awarded various prison terms; maximum being Rigorous Imprisonment for seven years with fine ₹5,000/- under Section 368 read with Section 366 IPC. All the sentences were to operate concurrently.

2. Allegations against the appellant were that on a raid by police at Kotha No.70, G.B.Road, Delhi, four girls including one 'X'(assumed name)

who were being forced into prostitution by the appellant and three others were rescued and sent to O.H.G. Nirmal Chayya, Jail Road, Delhi.

3. The appellant's conviction is primarily based upon 'X's statement. Three other girls who were also examined as witnesses did not support the prosecution. 'X' in her examination-in-chief had supported the prosecution but in her cross-examination she clearly admitted that whatever statement was made by her, it was due to tutoring by the police.

4. By an order dated 27.5.2004, the substantive sentence of the appellant was suspended till the disposal of the appeal on her furnishing personal bond in the sum of ₹20,000/- with one surety in the like amount to the satisfaction of the Trial Court subject to payment of fine (if any).

5. When the appeal was taken up for hearing, none appeared on behalf of the appellant. Various processes including non-bailable warrants were issued against the appellant but she was not traceable. Notice was also issued to the counsel representing the appellant. He tried his best to contact the appellant but was unable to get any information about her whereabouts. Notice was also issued to the surety under Section 446 Cr.P.C. On 25.3.2015, Mr.Riyasat Ali, surety, appeared in the court and sought time to produce the appellant. He again was unable to produce her. Order dated 22.12.2015 reveals that in the proceedings under Section 446 Cr.P.C. initiated against surety Riyasat Ali, he has deposited the surety amount of ₹20,000/- in the court.

6. As per Nominal Roll dated 8.1.2004 the appellant has spent about two years and twelve days in jail as on 8.1.2004.

7. Perusal of the order sheets reveals that despite number of attempts to execute the process against the appellant, it has remained

unserved. None has appeared on behalf of the appellant despite the case being on board since 2011. Apparently, the appellant is not interested in the prosecution of the appeal. The appeal is dismissed for non-prosecution.

8. It is made clear that if the appellant approaches this Court within a reasonable time to get her appeal decided on merits, her submission will be considered favourably.

9. Trial Court record (if any) be sent back forthwith along with copy of the order. The Trial Court shall issue necessary process to secure convict's presence to undergo the sentence.

(S.P.GARG)
JUDGE

MAY 23, 2017
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