

\$~2

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

+ CRL.A. 1097/2013

MINI @ A MINI @ MENTAL Appellant

Through: Mr. Akash Srivastava, Advocate

versus

STATE Respondent

Through: Mr. Rajat Katyal, Additional Public
Prosecutor for the State with
Jeetendra Singh, PS – Subhash Place

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

%

02.05.2018

The present appeal was preferred by the appellant Mini @A Mini @Mental from Jail. The appellant stands convicted by the trial court under Sections 302/458/460/411 and Section 379 read with Section 511/34 IPC and he has inter alia been sentenced to rigorous imprisonment of life apart from fine.

It appears that the appellant was being tried in another matter where he was found to be juvenile. Consequently, orders were passed for his transfer to the juvenile home, from where he escaped. This order was passed ignoring the fact that he had already attained majority and was an undertrial in other heinous offence cases.

In the present case, the appellant has not appeared even to take bail. He is absconding and is not traceable. In these circumstances, we are of the

considered view that in the light of the decision of the Supreme Court in ***Surya Baksh Singh versus State of Uttar Pradesh, (2014) 14 SCC 222***, the present appeal is liable to be dismissed on account of the appellant not prosecuting the case. In our view, the present is an even more grave situation than the one considered by the Supreme Court in *Suryabaksh Singh* (Supra) namely, where the convict prefers an appeal; obtains bail from the appellate court; and thereafter abscond and does not appear before the Court to press his appeal.

As noticed hereinabove, in the present case, the appellant has not even obtained bail and he has not surrendered despite being sentenced by the trial court.

We may observe that Mr. Akash Srivastava, Advocate has appeared on behalf of the legal aid. However, since the appellant is not present to give any instructions to the counsel, we are of the view that his appearance does not condone the act of the appellant.

In these circumstances, we are not inclined to grant any indulgence to the appellant. The appeal is accordingly dismissed.

VIPIN SANGHI, J

P.S.TEJI, J

MAY 02, 2018

PB