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

+ **CRL.A. 276/2005**

KAMAL @ KAKE

..... Appellant

Through: Mr. Saurabh Soni, Advocate with
Mr. Kshitiz Rao, Adv. & Mr. Mannat
Singh, Adv.

versus

STATE

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State
With SI Anup Rana, PS Uttam Nagar
& ASI Hariom, PS Hari Nagar.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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11.01.2019

The appellant was held guilty and convicted by the court of sessions by judgment dated 23.02.2005 in Sessions Case No.172/2004, arising out of FIR No.114/2004 of Police Station Uttam Nagar on the charge under Sections 394/392 IPC. By order dated 23.02.2005, he was sentenced to rigorous imprisonment for four years with fine of Rs.500/- and in default further rigorous imprisonment for three months. He challenged the said conviction and order on sentence by the present appeal.

The sentence was suspended and he was released on bail pending hearing on the appeal by order dated 10.02.2006. Thereafter, he has failed to appear to prosecute the appeal, this in spite of the processes being issued in terms of the series of orders commencing with order dated 16.03.2010. Eventually, in the wake of directions in the order dated 15.07.2010, the trial court initiated proceedings under Section 82 Cr.P.C., the process to surety

also not having secured any result.

The status report filed today confirms that the appellant was declared a proclaimed offender in this case on 01.09.2010 by the court of sessions. It is indicated that there was involvement on his part in at least four other cases, in one (arising out of FIR No.116/2004 of Police Station Hari Nagar) he having been acquitted, he not appearing in the remaining cases as well.

Against this backdrop, the course adopted by the division benches of this Court in *Mukesh vs. State* 2008 SCC Online Del 877 and *Kamlesh vs. State* 2009 SCC Online Del 3729 commends itself to be followed. Since the appellant, who was enlarged on bail, is deliberately keeping himself away not prosecuting the appeal, it being rendered manifestly an abuse of the process of the court, the appeal is dismissed. Coercive steps will continue against the appellant to ensure that his presence is secured so that he is taken in custody to serve the remaining sentence as ordered by the trial court by its judgment dated 23.02.2005 and order on sentence dated 23.02.2005.

A copy of this order be sent to the trial court for necessary action to enforce and execute the sentence against the convict. The concerned SHO shall render all assistance to the trial court.

R.K.GAUBA, J.

JANUARY 11, 2019

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