



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

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Date of Decision: 01.02.2024

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CRL.A. 150/2002

CHANDERPAL

..... Appellant

Through: Mr. Jaibhagwan, Mr. Rajeev Pratap Singh and Mr. Gaurav Chauhan, Advocates alongwith appellant/ Chanderpal in person.

versus

STATE GOVT. OF N.C.T. OF DELHI

..... Respondent

Through: Mr. Laksh Khanna, APP for State with SI Santosh Kumar, P.S. Mukherjee Nagar.

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CRL.A. 207/2002

MURARI LAL & ORS.

..... Appellants

Through: Mr. Jaibhagwan, Mr. Rajeev Pratap Singh and Mr. Gaurav Chauhan, Advocates alongwith appellant/ Chanderpal in person.

versus

STATE

..... Respondent

Through: Mr. Laksh Khanna, APP for State with SI Santosh Kumar, P.S. Mukherjee Nagar.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI



JUDGMENT (ORAL)

CRL.A. 150/2022

1. Present appeal has been preferred by appellant/*Chanderpal* against the judgment dated 29.01.2002 and order on sentence dated 30.01.2002 whereby Trial Court was pleased to convict the present appellant alongwith co-accused persons namely *Murari Lal* and *Hari Singh* under Section 363/34 IPC while they have been acquitted for the offences under Sections 328/34 IPC in respect of FIR No. 280/1995 registered at P.S. Mukherjee Nagar. Vide order on sentence, the appellant as well as the co-convicts were sentenced to rigorous imprisonment for 2 years 6 months each and to pay fine of Rs.3,000/- each. In default of payment of fine, they were directed to undergo simple imprisonment for 2 months each.

2. Briefly, the facts as recorded by the Trial Court, are as under:-

“1. Briefly stated the facts leading to this case are that Miss Rekha was living with her parents in Jhuggi Plot No. 458, Mukherjee Nagar, Delhi. On 11.11.93, at about 6.30 pm, Miss Rekha went to take milk but she did not return home. Her parents searched for her but she was not traced. The age of Miss Rekha was 14/15 years at that time. Smt. Premwati, the – mother of Rekha lodged the missing report in P.S. Mukherjee Nagar, Delhi on 12.11.93, and on her report, DD No. 48B was recorded on 12.11.93 in P.S. Mukherjee Nagar, copy of this DD was given to Smt. Premwati. The information was flashed to PCR and one copy of this report was given to SI Narender Singh for necessary action.

2. In the middle of September, 1995, Munna Lal, the father of Rekha went to Vill. Jhokra in Disstt. Aligarh, U.P. in search of his daughter. From there, he came to know that his daughter was kidnapped by his own relatives i.e. Murari Lal and Hari



Singh. On..... from Vill. Jhokra, he lodged the complaint ... of(not legible being relevant portion torn) P.S. Mukherjee Nagar. Singh recorded his statement and made his endorsement thereon and then sent the same for the registration of the case and hence, the present case was registered. Prosecutrix Rekha was traced and her statement u/s 164 Cr.P.C. was got recorded and after her statement, the involvement of one more person – namely Chander Pal was found. During trial, accused Murari Lal and Hari Singh were arrested. Accused – Chander Pal obtained the anticipatory bail and then, he was formally arrested and released on bail by the I.O. on 28.2.97. After completion of the investigation, accused were challaned to attend their trial for the offence u/s 363/328 IPC.”

3. During the course of submission in the present appeal, learned counsel for the appellant states that the appellant does not wish to press appeal on merits however, prays that the appellant be released for the period already undergone.

4. After investigation, charge-sheet came to be filed against the present appellant as well as co-accused persons namely *Murari Lal* and *Hari Singh* for the offence punishable under Sections 363/328/34 IPC. Charges were also framed under the said sections. The appellant pleaded not guilty. During the trial, prosecution examined 9 witnesses. Father of the prosecutrix was examined as PW1. He deposed that his daughter aged 14/15 years had gone missing and that he had lodged a missing complaint with regard to the same. After about one and a half years, the appellant and his wife and wife of co-convict *Hari Singh* informed him that the prosecutrix was with them. He further stated that accused *Murari Lal* was resident of his village. In his cross-examination, he denied the suggestion that the appellant or his wife had not stated that the prosecutrix was with them. Prosecutrix/R was



examined as PW2. She deposed that at the time of incident she was about 15 years and had gone to buy milk from the shop of one *Kamal*, where she met *Hari Singh* and *Chanderpal*. While the appellant and *Hari Singh* were her maternal uncles, *Murari Lal* was her paternal uncle. She was told that her father had met with an accident and on this pretext, they took her alongwith with them. She was offered tea and after drinking the same, she became unconscious. On regaining consciousness, she found herself in a train and all the accused persons were with her at that time. She was asked to marry one *Rajesh Paswan* and when she refused, she was kept forcefully for about three and a half years. Subsequently, the police recovered her. Mother of the prosecutrix was also examined who also supported the prosecution case. Dr.C.P.Sharma appeared as PW6 and proved the ossification report.

5. Initially a missing complaint was lodged by the mother of the prosecutrix on 12.11.1993 stating that prosecutrix went missing on 11.11.1993. Another missing complaint was lodged by father of the prosecutrix on 20.09.1995 stating that prosecutrix remained missing since 11.11.1993. The Trial Court, after considering the material placed on record as well as testimonies and the ossification report, came to the conclusion that age of the prosecutrix was not above 17 years at the time of the incident. The testimony of prosecutrix is categorical on the identification of the appellant as well as the other co-accused persons. She had stated that she was offered tea by them and when she gained consciousness, she was in a train and that all the accused persons including the appellant were present. She has further stated that she was kept by the accused persons forcefully.

6. I have gone through the material placed on record as well as the



testimonies of the witnesses. Having satisfied myself with the evidence, the judgement on conviction is upheld.

7. Appellant is presently around 60 years of age and is earning his livelihood by ironing clothes. Nominal roll of the appellant has been placed on record as per which, he has already undergone sentence of about 7 months and 29 days and earned remission of 1 month and 12 days. His jail conduct is also stated to be satisfactory. The appellant is also not found involved in any other case. In the facts and circumstances of the case, I am of the considered opinion that the period of sentence already undergone by the appellant/*Chanderpal* shall meet the ends of justice. Accordingly, the sentence of the appellant is modified to the period already undergone by him. His bail bond and surety bond are discharged.

8. Appeal is disposed of accordingly.

CRL.A. 207/2002

1. Present appeal has been preferred by appellants/*Murali Lal* and *Hari Singh* against judgment dated 29.01.2022 and order on sentence dated 30.01.2022, whereby Trial Court convicted the appellants alongwith co-convict *Chanderpal* in respect of FIR No. 280/1995 registered under Sections 363/328/34 IPC at P.S. Mukherjee Nagar. Vide order on sentence, the appellants as well as co-convict were sentenced to rigorous imprisonment for 2 years 6 months each and to pay fine of Rs.3,000/- each. In default of payment of fine, they were directed to undergo simple imprisonment for 2 months each.

2. Learned counsel for the appellants states that appellant/*Murari Lal* had expired on 21.11.2010 and his death certificate has also been placed on record . The factum of his death stands verified and in this regard a Status



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Report, under the signatures of SHO, P.S. Mukherjee Nagar, dated 21.11.2019 has also been placed on record. Death Certificate vide registration No. MCDOLIR-0210-004303803 has also been verified from the Office of Sub Registrar/Registrar (Birth & Death), Civil Line Zone, MCD.

3. Learned counsel for the appellants further submits that even the second appellant/*Hari Singh* has expired and in this regard a copy of his death certificate has been handed over. The factum of death of *Hari Singh* has also been verified and a Status Report has been handed over, which is taken on record.

4. Accordingly, the present appeal preferred by appellants *Murari Lal* and *Hari Singh* stands abated.

5. Copy of the order be communicated to the Trial Court as well as concerned Jail Superintendent for information.

MANOJ KUMAR OHRI
(JUDGE)

FEBURARY 01, 2024/ga