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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CRL.A. 40/2020**

**MITHLESH YADAV**

.....Appellant

Through: Mr. Virender Rajput, Advocate with  
appellant in person (Through V.C.)

versus

**STATE**

.....Respondent

Through: Ms. Shubhi Gupta, APP for State with  
SI Sachin, P.S. Khajuri Khas.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**ORDER**

**09.09.2025**

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1. The present appeal has been instituted under Section 374 Cr.P.C. against the impugned judgment of conviction dated 06.12.2019 and order on sentence dated 20.12.2019, passed by the ASJ-01 (North-East), Karkardooma Courts, Delhi in Sessions Case No. 44722/15 arising out of FIR No. 48/2012 registered under Sections 363 IPC at P.S. Khajuri Khas.

Vide the impugned order on sentence, the appellant herein was sentenced to undergo rigorous imprisonment for a period of 3 years for the offence punishable under section 363 IPC alongwith fine of Rs.10,000/- and in default of payment of fine to further undergo simple imprisonment for 3 months. The Trial Court also directed that out of the total fine of Rs.10,000/-, a sum of Rs.5,000/- be paid to the victim as compensation. Both sentences were directed to run concurrently and benefit under Section



428 Cr.P.C. was granted to the appellant.

The sentence of the appellant was suspended during the pendency of the present appeal vide order dated 01.12.2022.

2. Brief facts of the case as per the trial court are here under:

*“On 14.02.2012, complainant came to the police station and lodged missing report of her daughter/victim B aged about 15 years since 13.02.2012. On this, FIR u/s 363 IPC was registered. During investigation, on 22.02.2012, victim, was recovered from the house of Mithlesh Yadav at Village Nagma, Distt. Patna, Bihar. Thereafter, victim was medically examined. Statement of victim u/s 164 Cr.P.C was recorded. On 03.04.2012, at the instance of father of victim, accused Surjeet Pandit and Anil Kumar were arrested. On 03.05.2012, accused Mithlesh was arrested.”*

3. After completion of investigation, charges were framed under sections 376/363/328/342/365/34 IPC against the appellant, to which he pleaded not guilty and claimed trial.

4. The prosecution examined 23 witnesses in support of its case. The mother of the victim was examined as PW-1, who deposed that the victim did not return home from school on 13.02.2012. The father of the victim examined as PW-2. The victim herself was examined as PW-3. The rest of the witnesses were formal who deposed as to various aspects of investigation.

On the other hand, statement of the appellant was recorded under Section 313 Cr.P.C., wherein he denied all evidence and claimed that he was falsely implicated.

5. Learned counsel for the appellant submits that the testimony of the victim suffers from material inconsistencies and, therefore, cannot be relied upon. It is further submitted that the appellant is not a resident of village Nagma, Bihar. It is stated that the father of the victim due to previous



enmity had hidden the victim to falsely implicate the appellant.

6. On a perusal of the record, this Court finds that the factum of the victim being brought to the concerned village by the appellant stands proved through witness testimonies. Further, the recovery of the victim from the house of the appellant stands duly proved in light of the depositions of PW-10, PW-14 and PW-19. The factum of appellant's residence in the said village also stands corroborated by his arrest documents and charge sheet, both of which bears his signature and was never disputed. Even in his bail application, the same village address is reflected. Furthermore, the testimony of the victim is consistent and cogent with regards to the manner in which she was kidnapped by the appellant. Even if the victim had given her consent, her consent is immaterial as she was about 15 years old. The age of victim was also proved through her school records. The victim was medically examined and her MLC was proved through testimony of PW-8 and PW-9. The trial court concluded that the version of victim on aspect was not inspiring and carried material contradictions. It is also noted that it appears that there was some kind of relationship between the appellant and the victim, as reflected from the photographs produced on record, which the victim did not claim to be doctored or morphed. She admitted that the said photographs were taken during her school picnic. The Trial Court accordingly, though convicted the appellant only for the offence under Section 363 IPC, the other accused were exonerated completely of the offences for which they were charged.

On going through the entire record, the appellant's contentions are found to be meritless. The recovery of victim from appellant's house stands proved.



7. At this stage, learned counsel for the appellant, on instructions from the appellant who has joined the proceedings through V.C., states that appellant does not press the appeal on merits and rather prays that he be released to the period already undergone by him. In this regard, learned counsel further submits that appellant has undergone about one and a half years of his sentence. He is stated to be the sole breadwinner of his household, having the responsibility of earning a livelihood for his family comprising of his aged mother, wife and three children. Learned counsel further submits that appellant is not involved in any other cases. It is also stated that the fine imposed upon the appellant by the Trial Court stands duly paid. The said fact is also reflected in the order dated 01.12.2022 whereby the sentence of the appellant was suspended during the pendency of the present appeal.

8. Learned APP for the State, on instructions, confirms the factum of the appellant not being found to be involved in any other case.

9. As per the latest nominal roll dated 06.09.2025 on record, the appellant had undergone 1 year, 6 months, and 18 days of incarceration as on 21.11.2013, and his conduct in jail during incarceration was stated to be satisfactory. The appellant has faced trial for the last 13 years. Keeping in view all of the aforesaid, this Court is of the considered view that the ends of justice will be served if the conviction of the appellant is upheld and the substantive portion of his sentence is modified to the period already undergone by him. It is ordered accordingly.

10. The appellant is stated to have already deposited the requisite fine amount of Rs.10,000/- before the Trial Court, as also recorded in order dated 01.12.2022. The sum of Rs.5,000/- awarded to the victim as compensation



by the Trial Court, be released, if not already done.

11. The present appeal is disposed of in the above terms.

12. A copy of this order be communicated to the Trial Court as well as concerned Jail Superintendent, for information and necessary compliance.

**MANOJ KUMAR OHRI, J**

**SEPTEMBER 9, 2025**

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