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

+ CRL.A. 374/2016

MOBIN AHMED @ BOBBY

.....Appellant

Through: Mr. Anuj Kumar and Mr. Himanshu,
Advocates

versus

THE STATE (GOVT OF NCT OF DELHI)

.....Respondent

Through: Ms. Shubhi Gupta, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

08.09.2025

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1. By way of the present appeal preferred under Section 374 Cr.P.C., the appellant has assailed the judgment of conviction dated 25.02.2016 and order on sentence dated 02.03.2016 passed by the learned Additional Sessions Judge-Special Fast Track Court (South East), Saket Courts, New Delhi in Sessions Case No. 52/2013 arising out of FIR No. 344/2009 registered under Sections 365/34 IPC at P.S. New Friends Colony.

Vide the impugned order on sentence, the appellant herein was sentenced to undergo RI for a period of 5 years along with fine of Rs.10,000/-, in default whereof he would undergo SI for 6 months, for the offence punishable under Sections 366/34 IPC; and RI for a period of 3 years along with fine of Rs. 3,000/-, in default whereof he would undergo SI for 3 months, for the offence punishable under Sections 368/34 IPC. Both sentences were directed to run concurrently and benefit under Section 428 Cr.P.C. was granted to the appellant.

2. After completion of investigation, the chargesheet was filed by the



police, and the Trial Court thereafter framed charges under Sections 365/34, 366/34, and 368/34 IPC against the appellant and his co-accused persons, to which they pleaded not guilty and claimed trial.

3. The prosecution's case in a nutshell is that the co-accused persons, *Alishan @ Raja* and *Ali Hassan*, deceitfully induced PW-3/*Gulam Mustafa*, father of the prosecutrix, to consent to her marriage with *Alishan @ Raja*, and that the prosecutrix, aged about 19 years at the time, was thereafter brought to Delhi, wrongfully confined, and an attempt was made to force her into prostitution. When she resisted, she was beaten and denied food. After about 15–20 days, she was sold to the appellant herein and co-accused *Nisha*, who also wrongfully confined her and sought to coerce her into prostitution. The appellant and co-accused *Nisha* then handed her over to PW-2/*Rajender* to be taken to *Sikandrabad*. During the journey, she narrated her ordeal to *Rajender*, who, instead of carrying out the intended arrangement, sheltered her at his in-laws' house, where she later married his brother-in-law.

4. The prosecution examined 8 witnesses in support of its case. The prosecutrix/PW-1 gave a clear and consistent account of the deception practiced upon her, her forced confinement, and the attempts to force her into prostitution, first by co-accused *Alishan* and later by the appellant and co-accused *Nisha*. Her testimony withstood the test of cross-examination and was found to be trustworthy. PW-2/*Rajender* corroborated her version, deposing that the appellant and *Nisha* handed over the prosecutrix to him at *Surya Nagar* with instructions to take her to one *Vinod*, and that during the journey she narrated her ordeal, after which *Rajender* sheltered her at the house of his in-laws. PW-3/*Gulam Mustafa*, the father of the prosecutrix,



supported the case and proved his complaint (Ex. PW-3/A). The I.O., Inspector *Jaipal Singh*, examined as PW-7, deposed about the arrest of the accused persons, their disclosure statements, and the recovery of the prosecutrix at the instance of *Rajender*. The formal witnesses proved the registration of the FIR and recording of statements.

5. The statement of the appellant was recorded under Section 313 Cr.P.C., wherein he denied the allegations and claimed false implication, alleging enmity and asserting that the prosecutrix had eloped and the present case was a false one. However, the plea was not substantiated by any material evidence. No such suggestions were even put to the material witnesses in their cross-examination. Two defence witnesses were examined as DW-1 and DW-2, however, their depositions did not carry any credence in view of the consistent testimonies of PW-1, PW-2 and PW-5, and the material parts of the investigation as deposed by PW-7 going unchallenged.

6. On a perusal of the record, this Court finds that the testimony of the prosecutrix, corroborated by the evidence of PW-2 and PW-3, the complaint Ex. PW-3/A, the statement of the prosecutrix under Section 164 Cr.P.C. (Ex. PW-7/O), and the testimony of the I.O./PW-7, establishes beyond reasonable doubt that the appellant, along with the co-accused persons, acting in furtherance of their common intention, wrongfully confined the prosecutrix and attempted to force her into prostitution. Taken together, the circumstances form a complete chain pointing to the guilt of the appellant. The appellant was accordingly convicted of the offences punishable under Sections 366/34 IPC and 368/34 IPC.

7. Mr. Charan Singh and Mr. Anuj Kumar, learned counsels, appear for the appellant, along with the appellant. They state, on instructions, that the



appellant, having understood the consequences, does not wish to press the present appeal on merits and prays instead that the substantive sentence awarded to him be modified to the period already undergone by him. He further undertakes to deposit the fine amount of Rs.13,000/- within a period of four weeks from today.

8. Even otherwise, this Court, based on the material produced and keeping in mind that the prosecutrix duly identified the appellant in her testimony, that her account stood corroborated by PW-2 and PW-3, and that the role of the appellant was consistently established, concurs with the findings of the Trial Court and finds that no grounds to interfere with the conviction are made out. Consequently, the conviction of the appellant is upheld qua the offences under Sections 366/368/34 IPC.

9. It is submitted that the appellant, aged about 43 years, has two minor sons and an aged mother who are dependent on him. The offence in question pertains to the year 2009. The latest nominal roll dated 14.09.2023 on record indicates that, as on 11.04.2022, the appellant had already undergone 3 years, 8 months and 20 days of incarceration and earned 10 months and 22 days of remission against his sentence of 5 years' rigorous imprisonment. His conduct in jail for the last one year was reported to be satisfactory. The appellant was granted interim suspension of sentence for a period of four weeks on two separate occasions, and he is not reported to have misused the same. His sentence in the present case was suspended vide order dated 25.11.2019, subject to his furnishing a personal bond in the sum of Rs. 10,000/- along with two sureties of the like amount, and he has been out since being released from jail on 17.12.2019. The nominal roll and order on sentence also do not reflect any other prior criminal involvements.



10. Keeping in view all of the aforesaid, this Court is of the considered view that the ends of justice will be served if the appellant's substantive sentence in the present case is modified to the period already undergone by him. However, the same shall be subject to the appellant paying the fine of Rs.13,000/-, as imposed by the Trial Court. The appellant shall pay the same within a period of four weeks, failing which he shall undergo the sentences in default of payment of fine imposed by the Trial Court. After payment, the receipt of the same shall be deposited with the concerned I.O.

11. The present appeal is partly allowed in the above terms. The bail bonds furnished by the appellant are cancelled and his sureties are discharged.

12. A copy of this order be communicated to the Trial Court, as well as the concerned Jail Superintendent.

MANOJ KUMAR OHRI, J

SEPTEMBER 8, 2025

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