



2025:DHC:9318



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 16.10.2025

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CRL.A. 707/2016

RAM LAL @ MALLA

.....Appellant

Through: Mr. Mayank Kumar, Advocate

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Shivam**CORAM:****HON'BLE MR. JUSTICE MANOJ KUMAR OHRI****JUDGMENT (ORAL)**

1. By way of the present appeal, the appellant seeks to assail the judgment of conviction dated 29.04.2016 and the order on sentence dated 30.04.2016 passed by the Learned Addl. Sessions Judge-01, North-East District, Karkardooma Courts, Delhi, in Sessions Case No. 44565/2015 arising out of FIR No. 368/2012 registered under Section 363 IPC at P.S. Seelampur.

Vide the impugned order on sentence, the appellant was sentenced to the period already undergone by him for the offence punishable under Section 342 IPC; and to RI for a period of 5 years along with a fine of Rs.5,000/-, in default whereof he was to undergo SI for 1 month, for the offence punishable under Section 363 IPC. The benefit of concurrent running of sentences as well as that under Section 428 Cr.P.C. was granted



to the appellant. His sentence was suspended during the pendency of the present appeal vide order dated 01.08.2016, and he was accordingly released from custody on 17.09.2016.

2. Pithily put, the case of the prosecution is that on 22.10.2012, the victim's father lodged a report at P.S. Seelampur regarding his 13-year-old daughter having gone missing, alleging that she had gone to school on 19.10.2012 but did not return home. On the basis of his complaint, the concerned FIR was registered. The victim was subsequently recovered along with the appellant herein from Village Bamnora Kala, District Chhatterpur, Madhya Pradesh, at the pointing out of the appellant's brother *Raghubir*. Upon her recovery, the victim was brought back to Delhi and medically examined. After filing of the charge sheet, the Trial Court framed charges against the appellant under Sections 363/366/376/506/342 IPC, to which he pleaded not guilty and claimed trial. After examining 18 prosecution witnesses and the appellant having declined to lead evidence in his defence, the Trial Court found that while the allegations of kidnapping for the purpose of compelling marriage, rape, and criminal intimidation were unsubstantiated and the evidence relied upon to prove the same was riddled with contradictions, it stood proved that the accused had taken the minor victim from the lawful guardianship of her father and wrongfully confined her for several days. Consequently, the accused was convicted for the offences punishable under Sections 363 and 342 IPC and acquitted of the remaining charges.

3. The testimony of the victim was found to be inconsistent and marked by material improvements at every stage, her statements under Sections 161



and 164 Cr.P.C. and her Court deposition being contradictory as to the place, manner, and motive of the alleged offence. The medical evidence, too, did not substantiate the allegation of sexual assault, with no external injuries or signs of forcible intercourse being found, and the FSL report revealed no traces of semen on the exhibits examined. However, the fact that the victim was about 13 years of age at the time of the incident stood conclusively proved, and her consent, if any, was thereby rendered immaterial in law. In view of the aforesaid, and the act of the appellant in taking her away and wrongfully confining her being proved beyond reasonable doubt, this Court concurs with the findings of the Trial Court and finds that no grounds to interfere with the impugned judgment are made out. Consequently, the conviction of the appellant is upheld qua the offences punishable under Sections 363 and 342 IPC.

4. The appellant is present in person and is duly identified by the concerned I.O. His gate pass has been handed over and is taken on record. He submits that he is remorseful and, being fully aware of the consequences, does not wish to press the present appeal on merits. He accepts his guilt and states that he shall not commit such offences in the future. He prays that he be released on the period already undergone by him in custody. He further undertakes to deposit the fine imposed upon him by the Trial Court.

5. Learned APP for the State has handed over a fresh nominal roll in respect of the appellant and the same is taken on record. He submits, on instructions from the concerned I.O., that the appellant has no other criminal involvements. The same stands confirmed upon perusal of the nominal roll.

6. The law regarding release of the appellant in cases where the convict has undergone more than half of the sentence was laid down by the Supreme



Court in Sonadhar Vs. State of Chhattisgarh, reported as **2021 SCC OnLine SC 3682**, and the relevant portion of the same is extracted hereinunder:

“28. We thus issue the following directions:

a) A similar exercise be undertaken by the High Court Legal Services Committee of different High Courts so that convicts represented by legal aid Advocates do not suffer due to delay in hearing of the appeals. NALSA will circulate this order to the concerned authority and monitor the exercise to be carried on.

b) The Delhi High Court Legal Services Committee would take up the cases of those convicts who have undergone more than half the sentence in case of fixed term sentences and examine the feasibility of filing bail applications before the High Court, while in case of ‘life sentence’ cases, such an exercise may be undertaken where eight years of actual custody has been undergone.

c) We are of the view that in fixed term sentence cases, an endeavor be made, at least as a pilot project, in these two High Courts to get in touch with the convicts and find out whether they are willing to accept their infractions and agree to disposal of the appeals on the basis of sentence undergone.

d) A similar exercise can be undertaken even in respect of ‘life sentence’ cases where the sentenced persons are entitled to remission of the remaining sentence i.e., whether they would still like to contest the appeals or the remission of sentence would be acceptable to such of the convicts.”

7. The appellant is a young man of about 30 years, who was approximately 20 years old at the time of the offence. Before his incarceration, he was gainfully employed as a driver. It is submitted that he belongs to the poor strata of society and has already faced the rigours of a protracted trial since 2012.

8. The nominal roll reflects that the appellant has already undergone about 2 years and 10 months of his substantive sentence, and that the unexpired portion of the same now stands at about 2 years and 2 months, against his total substantive sentence of 5 years RI.

9. Having regard to the fact that the incident pertains to the year 2012, the facts and law as discussed above, and in view of the aforementioned



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mitigating circumstances, the appellant's prayer for release on the period already undergone is accepted. The conviction of the appellant under Sections 342/363 IPC is upheld; however, the substantive sentence awarded to him is modified to the period already undergone by him.

The sentence of fine of Rs.5,000/- imposed upon the appellant is maintained. In case of non-payment, he shall undergo the sentence in default of payment of fine, i.e. 1 month SI, as imposed by the Trial Court.

10. The present appeal is partly allowed in the above terms.

11. Subject to the appellant depositing the fine imposed upon him by the Trial Court, the personal bond furnished by him shall stand cancelled and his surety discharged.

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

MANOJ KUMAR OHRI, J

OCTOBER 16, 2025/nb