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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 588/2004**

DECIDED ON :2nd February, 2015

MOHD. HUSSAIN Appellant
Through : None.

versus

THE STATE (NCT OF DELHI) Respondent
Through : Mr. Navin K. Jha, APP for State.

CORAM:
HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. Present appeal has been preferred by the appellant Mohd. Hussain to challenge the legality and correctness of a judgment dated 16.03.2004 of learned Additional Sessions Judge in Sessions Case No. 12/2002 arising out FIR No. 97/1990, P.S. Mehrauli, Delhi by which he was held guilty for committing offence punishable under Sections 366/376 IPC. By an order dated 19.03.2004, he was awarded rigorous imprisonment for 7 years with fine of Rs. 5,000/- under Section 376 IPC.

2. Allegations against the appellant as reflected in the Charge-sheet was that on 03.05.1990, the father of the victim 'X' lodged a report informing that his daughter 'X' (assumed name) had not returned home after she left it on 15.04.1990. A case under Section 363 IPC was registered. Subsequently, the victim 'X' was recovered from the custody of the appellant. The prosecutrix was medically examined. Her statement under Section 164

Cr.P.C. was recorded. The statements of the witnesses well conversant with the facts were recorded. After completion of investigation, a Charge-sheet under Sections 363/366/376 IPC was submitted against the appellant. The prosecution examined 9 witnesses to establish the appellant's guilt. In the statement recorded under Section 313 Cr.P.C, the appellant denied his involvement in the offence. The trial resulted in his conviction under Sections 366/376 IPC. Being aggrieved and dissatisfied, the appeal has been preferred by the appellant.

3. The appeal was admitted by an order dated 26.08.2004. The application moved by the appellant for suspension of sentence was dismissed by an order dated 20.04.2006. The appeal was to come up in due course. The appeal was not taken up thereafter for hearing. On 20.01.2015, when the file was taken up for hearing, none appeared on behalf of the appellant. Production warrants were ordered to be issued against him. Fresh Nominal Roll was also called.

4. The Nominal Roll dated 28.01.2015 reveals that the appellant has already been released on 04.09.2007 after he served out the substantive sentence awarded to him. The fine has been paid by him in Jail.

5. A letter dated 30.01.2015 has also been received from Central Jail No. 3, Tihar, New Delhi and it is informed that the appellant has already been released after he served out the substantive sentence awarded to him. Since the appellant has already completed the substantive sentence awarded to him and has deposited the fine imposed, the appeal preferred by the appellant has become infructuous. None has appeared on behalf of the appellant to address the arguments on merits. Even after being released on 04.09.2007, the appellant did not appear before the court to get the appeal

decided on merits. It seems that the appellant is not interested to pursue the appeal. The appeal is dismissed as infructuous. However, it is made clear that if the appellant appears before the Court within a reasonable time to get the appeal decided on merits, his prayer would be considered favourably. Pending application also stands disposed of.

6. Trial court record, if any, be sent back with the copy of this order.
7. Intimation be sent to the Jail Superintendent.

(S.P.GARG)
JUDGE

FEBRUARY 02, 2015

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