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

+ CRL.A. 961/2016

RANDHIR

.....Appellant

Through: Mr. Bijender S. Dhull and Mr. Sachin
Kumar, Advocates

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

20.12.2025

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1. By way of present appeal, the appellants seek to assail the judgement of conviction dated 08.09.2016 and order on sentence dated 09.09.2016 passed by ASJ-01, North-East District, Karkardooma Courts, New Delhi, in SC no. 44583/2015 arising out of FIR no. 233/2011 registered under Sections 363 IPC at P.S. Seelampur, Delhi.

2. Vide the impugned order on sentence, the appellant was sentenced to undergo RI for a period of 5 years alongwith fine of Rs. 1,000/- in default thereof to undergo further SI for a period of 15 days for the offence punishable under Section 366 r/w 120B IPC; the appellant was also sentenced to undergo RI for a period of 5 years alongwith fine of Rs. 1,000/- in default thereof to undergo further SI for a period of 15 days for the offence punishable under Section 368 r/w 120B IPC; further, he was



sentenced to undergo RI for a period of 1 years alongwith fine of Rs.500/- in default thereof to undergo further SI for a period of 15 days for the offence punishable under Section 506 r/w 120B IPC. The benefit of Section 428 Cr.P.C. was granted to the appellant.

The sentence of the appellant was suspended during pendency of the present appeal by this Court vide order dated 28.03.2017.

3. Briefly put, the case of the prosecution is that on 01.07.2011, the complainant lodged a missing report at P.S. Seelampur regarding his minor daughter, aged about 14 years and stated to be mentally weak, who had gone missing from home on 20.06.2011. On the basis of the said complaint, the present FIR was registered. Acting on secret information received on 16.09.2011, a raiding party was constituted, pursuant to which the victim was recovered from the Bus Stand, Sonipat. She was found in the company of the appellant and co-accused *Ashiya*, who were apprehended. In her statement, the victim disclosed that after leaving her house to meet a friend, she lost her way and while asking for directions, co-accused *Sanjeeda* and her daughter *Gulista*, forcibly took her to Haryana under threats. She further stated that she was confined at the house of co-accused *Ashiya* at Shahbad, Haryana. She alleged that on the fifth day, she was forcibly married to the appellant in a temple and thereafter she was compelled to live with him.

4. In support of its case, the prosecution examined 16 witnesses, the victim was examined as PW-1. *Sushil Kumar*, cousin of the appellant, was examined as PW-2, and *Satpal*, uncle of the appellant as PW-5. They were examined to prove the marriage photographs and thereby corroborated the factum of marriage. *Shakil*, the father of the victim and complainant, was examined as PW-3, he proved the lodging of the missing report, receipt of



calls regarding the victim and her recovery from Sonipat. The rest of the witnesses were formal in nature and deposed as to various aspects of the investigation.

The appellant was examined under Section 313 Cr.P.C., wherein he denied all incriminating circumstances and claimed false implication.

5. A perusal of the record indicates that the testimony of the victim, PW-1, is cogent, credible and inspires confidence. PW-1 has given a clear, consistent and detailed account of the sequence of events. PW-1 correctly identified the appellant in Court. The version of PW-1 stands duly corroborated by the recovery of the victim from the Bus Stand, Sonipat, in the company of the appellant, as proved through the testimonies of HC Rameshwar (PW-9) and SI Mukesh Kumar (PW-12). It is further corroborated by the call detail records proved by Sandeep Chaudhary (PW-6), which link the appellant to the calls made to the complainant regarding the victim, as well as by the marriage photographs proved on record through PW-2 and PW-5, establishing that the appellant had married the victim. The conduct of the appellant in confining the victim, threatening her and preventing her from returning to her parents clearly establishes his active participation. The defence plea of a consensual marriage and false implication has remained unsubstantiated and unsupported.

Having considered the material placed on record, this Court concurs with the findings of the trial court and finds no grounds to interfere with the same are made out. Consequently, the conviction of the appellant is upheld qua the offence under Sections 366/368/506/120BIPC.

6. Learned counsel for the appellant, on instructions from the appellant,



submits that the he does not wish to press the appeal on merits and confine his prayer to seeking release on probation. It is prayed that the benefit of Section 4 of the Probation of Offenders Act, 1958 be extended to him. Learned counsel further draws the attention of this Court to the order dated 09.09.2016 passed by the Trial Court, wherein it is recorded that the fine imposed upon the appellant stands paid.

7. Learned APP for the State, has handed over a copy of the Status Report and is taken on record, as per which the appellant is not convicted in any other case.

8. Pursuant to this Court's directions, the Social Investigation Report of the appellant has been received from the Probation Officer, Tis Hazari Courts, Delhi which in turn has been forwarded by the concerned District Probation Officer, Kurukshetra. As per the report appellant is 42 years of age, educated upto 8th class, and resides at Village Naisi, District Kurukshetra, in his own house. He is the sole breadwinner of his family, working as an agriculturist and is the owner of 1 $\frac{3}{4}$ acre of agricultural land, but he does not have a fixed income. His family comprises his wife and 1 minor son. The economic condition of the appellant is very poor and he is stated to be physically and mentally fit. It is also noted that he is not involved in any other case. His behaviour is described as normal and socially appropriate, and his family and neighbours have also expressed a favourable opinion about him. The Probation Officer has stated that there is a possibility of rehabilitation and reformation of the appellant.

9. The underlying object of releasing offenders on probation is to facilitate their reintegration into society as law-abiding citizens, fostering self-reliance and aiding in their reformation. A testament to the importance



of this provision is that the Supreme Court in Lakhvir Singh & Ors. v. State of Punjab & Anr.,¹ has extended the benefits of the Probation of Offenders Act, 1958 even to convicts who had not completed the mandatory minimum sentence of seven years as prescribed in Section 397 IPC.

10. It is pertinent to note that Sections 366/368/506 r/w 120B IPC does not prescribe any minimum sentence. Given that even otherwise, the offence does not carry a mandatory minimum sentence, the Court retains discretion to extend the benefit of probation to the appellant, provided the circumstances justify such relief.

11. Having regard to the nature of the offence, the period of custody already undergone, and the overall findings of the Social Investigation Report, as well as the legal position *qua* the applicability of Probation of Offenders Act as iterated above, this Court is persuaded to adopt a reformatory approach. The appellant has been living peacefully in society, has maintained a stable occupation, and is the sole breadwinners of his family. The Probation Officer's report further affirms his good conduct, normal social behavior, and positive inclination towards reformation.

12. Accordingly, while upholding the judgment of conviction and order on sentence passed by the learned Trial Court, the sentence imposed upon the appellant is modified to the extent that he shall be released on probation of good conduct under Section 4 of the Probation of Offenders Act, 1958, upon furnishing a probation bond in the sum of Rs.10,000/-, with one surety in the like amount, to the satisfaction of the Trial Court within five weeks from today. He shall maintain peace and good behaviour for a period of one year and shall not commit any offence during the period of probation.

¹ 1 (2021) 2 SCC 763



13. The appeal and all pending applications, if any, stand disposed of in the above terms.

14. A copy of this judgment be communicated to the Trial Court, the concerned Probation Officer, and the concerned Jail Superintendent for information and compliance.

MANOJ KUMAR OHRI, J

DECEMBER 20, 2025

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