

Surender @ Arjun vs.state

Surender @ Arjun vs.state

SooperKanoon Citation : sooperkanoon.com/1213056

Court : Delhi

Decided On : Feb-23-2018

Appellant : Surender @ Arjun

Respondent : State

Judgement :

* % + IN THE HIGH COURT OF DELHI AT NEW DELHI Decided on:

23. d February, 2018 CRL.A. 245/2016 SURENDER @ ARJUN Appellant Represented by: Mr. Imran Khan, Adv. STATE versus Represented by: Mr. Amit Gupta, APP with SI Gaurav Kumar PS Civil Line Respondent CORAM: HON'BLE MS. JUSTICE MUKTA GUPTA MUKTA GUPTA, J.

(ORAL) 1. By this appeal the appellant had challenged his conviction for offences punishable under Section 363/367/377 IPC and the order on sentence dated 27th March, 2015 directing him to undergo rigorous imprisonment for a period of 7 years for offences punishable under Sections 367 and 377 IPC and rigorous imprisonment for a period of 5 years for offence punishable under Section 363 IPC.

2. The case of the prosecution is that the appellant kidnapped a minor child aged two and a half years old and committed sodomy on him. The act of the appellant was witnessed by Hardarshan and Vikram who were present having seen the child being taken and thereafter informed the parents. The prosecution by examining

the eye-witnesses Hardarshan and Vikram besides the parents of the victim has proved the prosecution case.

3. The case of the prosecution also stands proved by the testimony of Dr. Surrender Kumar (PW-7) who examined the victim a minor child of two and a half years on 9th August, 2011 at about 8.10 PM and found the following injuries on local examination: 1. Multiple bruises on below and lateral side of right eye measuring 1cm x 0.5cm, 1.5cm x 0.5cm, 0.5cm x 0.5cm, 0.5cm x 0.3cm. Bruises on upper right side of the lip measuring 1cm x 3cm.

2.

3. Multiple lenier abrasion on right flank measuring 4cm, 2cm. Two lenier abrasion on right flank measuring 4 cm, 2cm.

4.

5. Multiple lenier abrasion and bruises on his back.

6. Multiple small bruises and abrasion over front and back 7. of both thighs. Bruises with redness of skin around anal area (no active bleeding was found at the time of examination). As per PW-7 who exhibited the MLC Ex.PW-7/A the injuries on the 4. child suggested the act of sodomy committed by the appellant. Further, as per the FSL report of the rectal swab of the victim child collected, semen was detected.

5. Considering the overwhelming evidence against the appellant this Court finds no ground to set aside the judgment of conviction. As regards the order on sentence as per the nominal roll the appellant has already been released on 12th December, 2017 on completion of the sentence and after payment of fine. Even otherwise sentence of rigorous imprisonment of 7 years awarded to the appellant could not be said to be harsh or unrealistic.

6. Appeal is dismissed. (MUKTA GUPTA) JUDGE FEBRUARY23 2018 ga CRL.A. 245/2016 Page 2 of 2

