

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

+ CRL.REV.P.476/2007 & CRL.M.8289/2007

% Date of decision:04.02.2008

SHRI SANJIV KUMAR ...PETITIONER
Through: Mr.Anil Kumar Gupta, Mr.Vipin Chaudhary and Mr.Dinesh Malhotra, Advocates

Versus

THE STATE & ORS ...RESPONDENTS
Through: Mr. R.N. Vats, APP for the State/R-1.
Mr.R.S.Juneja, Advocate for the complainant.

CORAM:
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

1. Whether the Reporters of local papers may be allowed to see the judgment? No
2. To be referred to Reporter or not? No
3. Whether the judgment should be reported in the Digest? No

SANJAY KISHAN KAUL, J. (ORAL)

1. A complaint was lodged by Manjeet Singh, s/o Shri Nihal Singh with the Police Station Mansarovar Park, Shahdara on 13.3.2006 about non-return of his brother Paramjeet Singh, who was stated to be carrying about Rs.2.00 lacs. Paramjeet Singh was stated to be going to Haridwar and informed that he would be back at night. At the earlier stage of time, even mobile contact had been made with him where he had informed that if

he did not reach in time, he would come the next morning, but even that had not happened. The complaint also stated that the endeavour to talk with Paramjeet Singh was not successful though his phone was open and voices could be heard, including of one lady. Since there was a voice heard on telephone that Muzaffar Nagar from this petrol pump is about 30 K.M., the complainant along with his Bhabhi drove towards the said destination. It was found that there were conversations between one Kartar Singh, Paramjeet Singh and one Ms.Anjana.

2. An FIR 167/2006 dated 14.3.2006 was registered at P.S. Seema Puri and in pursuance to the investigation carried out by the police, a charge-sheet was filed on 7.8.2006. The body of Paramjeet Singh was recovered under Police Station Mansoorpur. In the charge-sheet it was recorded that Manjeet Singh had given a statement that his brother Paramjeet Singh used to carry on business of kabadi/scraps and there were certain other persons also carrying on business from the same address. Paramjeet Singh had left the godown with Saleem @ Sabbu who carried out business from the said address stating that he was going to Agra, U.P. The programme for going to Agra was cancelled and after that Saleem @ Sabbu and Paramjeet Singh left for Ghaziabad regarding some business. Due to traffic jam, Paramjeet Singh turned around and talked to his wife when it was informed that he was having Rs.2.00 lacs

in his possession. The voice of Anjana was heard when the phone was again dialled. Subsequently the telephone was switched off. The Black Santro car, being driven by Paramjeet Singh, was found inside the Roadways Bus Stand at Roorkee, which was admitted to belong to Paramjeet Singh. The dead body was subsequently recovered. There were three suspects who were stated to have all talked to each other, including the petitioner herein. The trail led to a rented house in Khatauli. Three accused were ultimately arrested when they disclosed the name of their associate Sanjiv Kumar and the factum of their having murdered Paramjeet Singh by cutting his throat by Ustara on the fateful night at the said house at Khatauli. The dead body was rolled in clothes and taken in the car of the deceased and thrown at the site where it was found. The investigation u/s 365/302/201/34 IPC was, thus, completed and placed before the court.

3. The learned trial court in terms of the order dated 6.3.2007 framed charges against all the three accused persons, being the petitioner, Ravinder Singh @ Kundu and Anjana. The trial court found that the intimacy of Paramjeet Singh led to the accused persons to hatch a conspiracy and abducted him for committing his murder. Paramjeet Singh dropped his programme of going to Agra on the telephonic calls of Anjana and accompanied Anjana, with whom he was having illicit relationship. On the inducement, the deceased accompanied

Anjana to Muzaffar Nagar where they were seen in the car. It was, thus, found that Paramjeet Singh was abducted with the intent to eliminate him, which object was achieved.

4. The petitioner herein seeks quashing of the order framing charges against him, inter alia, on the ground that the trial court had no jurisdiction in the present case and it is the competent court at Distt. Muzaffar Nagar where the investigation report should be presented.
5. Learned counsel for the petitioner contends that the deceased Paramjeet Singh left Delhi for Haridwar of his own will. Learned counsel in this behalf referred to the provisions of Sections 156, 170, 177 to 188 of the Cr.P.C. The second plea advanced is that the first complaint lodged by Manjeet Singh has been ignored which also showed that the deceased Paramjeet Singh left Delhi of his own sweet will. It was, thus, submitted that the trial court had erred in law in relying on the statement of the witnesses recorded u/s 161 Cr.P.C. while ignoring the first information report.
6. Learned counsel referred to the judgment of the learned single Judge of this Court in Malkiat Singh & Ors. Vs. State & Anr., 2005 (2) JCC 1237 wherein in a case u/s 498A/406/304 IPC it was held that the allegations in the complaint have to be seen to ascertain the territorial jurisdiction and when there was no allegation of any torture of any kind to the wife in Delhi, the Magistrate should be directed to return the police report to the

IO to be presented before the appropriate court in compliance of the provisions of Section 170 Cr.P.C. To the similar effect is the pronouncement of the Apex Court in Y. Abraham Ajith and Ors. Vs. Inspector of Police, Chennai & Anr., 2004(3) JCC 1305.

7. Learned APP for the State, on the other hand, relied upon the judgment of the Supreme Court in Vishwanath Gupta Vs. State of Uttaranchal, 2007 III AD (Cr.) (S.C.) 75 which dealt with a case of kidnapping for ransom and the aspect of territorial jurisdiction to conduct the trial of the case. The death bodies had been seized and panchnama was prepared at Unnao, U.P. and then an application was filed that the Nainital courts had no jurisdiction to frame the charges as the offence has been committed in the State of Uttar Pradesh and, therefore, the State of Uttaranchal had no jurisdiction. It was held by the Supreme Court that the important ingredient of Section 364A IPC is the abduction or kidnapping, as the case may be. Thereafter, a threat to the kidnapped/abducted that if the demand for ransom is not made then the victim is likely to be put to death and in the event death is caused, the offence of Section 364A is complete. It was, thus, stated that there were three stages in this Section – kidnapping or abduction, threat of death coupled with demand of money and lastly when the demand is made and then causing death and when the three ingredients are available, that will constitute the offence u/s 364A IPC and when such other acts to be done or were so done

at different local areas, it may be inquired into or tried by a court having jurisdiction over any of such local areas.

8. On hearing learned counsel for the parties, I find no merit in the petition.

9. The case of the prosecution is that a conspiracy was hatched to abduct the deceased Paramjmeet Singh for committing his murder and his intimacy with Anjana was utilized for the said purpose. Thus, Paramjeet Singh was induced to proceed towards Muzaffar Nagar with the said object of implementing the conspiracy with ultimate death being caused at Khatauli. The deceased was abducted with the intent of eliminating him and ultimately he was so eliminated at Khatauli. Thus, the conspiracy was hatched in Delhi to abduct and eliminate Paramjeet Singh and such elimination took place in the same night at Khatauli in pursuance to the conspiracy hatched at Delhi. In view thereof and in view of the authoritative pronouncements of the Supreme Court in Vishwanath Gupta's case (supra), it cannot be said that the trial court would have no territorial jurisdiction to try the case.

10. I am also unable to accept the plea of learned counsel for the petitioner that the initial complaint alone should be looked into in the absence of the statement recorded u/s 161 Cr.P.C. The substratum is the non-return of the deceased and his change of plan from Agra to Muzaffar Nagar at the behest of Anjana for furtherance of the conspiracy.

11. Dismissed.

12. Trial court record be sent back forthwith.

Crl.M.A.8289/2007

The application has become infructuous and is disposed of.

Interim orders dated 27.7.2007 stand vacated.

February 4, 2008
'sp'

SANJAY KISHAN KAUL, J.