

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

% Date of Decision :11th February, 2010

+ **Crl. A. No. 674/2005**

LALIT KUMAR Appellant
Through: Ms.Charu Verma, Advocate

versus

STATE Respondent
Through: Mr.M.N.Dudeja, APP

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE SURESH KAIT

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

PRADEEP NANDRAJOG, J. (Oral)

1. The appeal has been called out for hearing. Ms.Charu Verma, Advocate on the panel of Delhi High Court Legal Services Committee has stood up to argue the appeal informing us that the appellant had desired a legal aid counsel to represent him and had named Sh.A.S.Rajput, Advocate as the one who should be representing him, probably for the reason the Delhi High Court Legal Services Committee has nominated Mr.A.S.Rajput, Advocate, but the said Committee has entrusted the brief to her.

2. We proceeded to hear arguments in the appeal and do formally appoint Ms.Charu Verma as the Amicus Curiae on behalf of the appellant and fix her fee in sum of Rs.5500/- to be paid by the Delhi High Court Legal Services Committee.

3. Vide impugned judgment and order dated 13.05.2005 the appellant has been convicted for the offence punishable under Section 364-A/34 IPC.

4. Co-accused Ajay Prashad was declared a Proclaimed Offender. He continues to evade the process of law till date.

5. In returning a finding of guilt the learned trial Judge has relied upon the testimony of Dhananjay Kumar PW-2 who deposed two facts. Firstly, the appellant and co-accused Ajay Prashad visiting him at his house in Bihar on 27.07.2003 and informed him that his nephew Ravi Ranjan was in their custody and that he would be released only if ransom in sum of Rs.1.5 lacs is paid failing which the child would be killed. He was threatened that if he informs the police even he would be finished. He was directed to ensure that the ransom amount was paid.

6. The Second fact deposed to by Dhananjay Kumar PW-2, which fact has been corroborated by Pramod Kumar PW-5, the father of Ravi Ranjan as also Ct.Inderpal PW-5, ASI Babu Ram and Ravi Ranjan PW-4 that as per the demand of the

appellant and the co-accused when ransom amount was being paid at the spot directed to be the one where the ransom amount would be paid, appellant was apprehended at the spot when he came to collect the ransom and Ravi Ranjan was recovered from his custody. Co-accused Ajay, who probably sensed that something was amiss, having walked towards the spot with the appellant, retraced his steps and hid behind the bushes and on seeing the raiding party left the appellant and fled from the spot.

7. The learned trial Judge has also found incriminating evidence against the appellant with reference to the testimony of Ravi Ranjan PW-4, the child who was kidnapped.

8. Process of law commenced when Pramod Kumar PW-5, father of Ravi Ranjan went to the police station on 19.07.2003 and made statement Ex.PW-5/A before the Duty Officer informing that on 15.07.2003 Ajay Prashad who was his ex-employee had stayed in his residence and that since 16.07.2003 his son Ravi Ranjan was missing.

9. ASI Babu Ram PW-8 to whom the matter was assigned on inquiry made the endorsement Ex.PW-8/A beneath the afore-noted statement and got registered a case for the offence punishable under Section 363 IPC. On 27.07.2003 Dhananjay Kumar PW-2 rang up Pramod Kumar and informed him that two persons have visited him and informed him that

Ravi Ranjan was in their custody and unless Rs.1.5 lacs was paid to secure his release the child would be killed. Pramod Kumar informed the said fact to ASI Babu Ram who immediately formed the raiding party consisting of beside himself Ct.Inderpal and left for Patna inasmuch as Dhananjay Kumar has informed Pramod Kumar that the kidnappers had told him to pay the ransom at village Sisor, District Nalanda, Bihar at around 12:00 noon on 29.07.2003.

10. Preparatory steps were taken by making bundles having a genuine note each at the top and the bottom of each bundle in denomination of each Rs.50/-. The police party accompanied by Pramod Kumar left Delhi by Magadh Express and reached Patna on 28.07.2003 and the next day the police personnel along with Dhananjay Kumar hide themselves. Pramod Kumar proceeded to the spot where the ransom had to be paid.

11. The appellant and the co-accused Ajay were seen coming towards the spot with the child. Sensing that something was amiss Ajay laggard behind and hid himself behind the bushes. The moment the police overpowered the appellant and recovered the child, Ajay managed to flee from the spot.

12. Having perused the testimony of Dhananjay Kumar PW-2, it is apparent that he has established the facts as noted

above pertaining to what Dhananjay saw and heard. He has deposed that he informed Pramod Kumar on 27.07.2003 that the accused had contacted him requiring him to inform the father of the kidnapped child that ransom should be paid in sum of Rs.1.5 lacs on 29.07.2003. He conveyed the said fact to Pramod Kumar. He has also deposed facts of appellant being apprehended on 29.07.2003 when he came to receive the ransom at village Sirsor.

13. Pramod Kumar PW-5, Ct.Inderpal PW-6, ASI Babu Ram PW-8 as also Ravi Ranjan PW-4 have deposed facts in harmony with the testimony of Dhananjay Kumar pertaining to appellant's arrest on 29.07.2003.

14. No blemish worthy of being noticed has been pointed out to us in the testimony as also the cross-examination of the said witnesses.

15. That Dhananjay Kumar admitted not having informed the local police that two persons had visited him on 27.07.2003 and told him to convey to Ravi Ranjan's father the demand of ransom, would not mean that Dhananjay Kumar has fabricated a lie. Being the uncle of Ravi Ranjan he thought it fit only to inform Ravi's father and not the police is not unnatural.

16. In matters of abduction where the threat by the kidnappers is that if police is informed it would have serious

consequence on the kidnapped child does prevent the family members of the kidnapped person not to report the matter to the police. Cases are not unheard of where ransom amount has been paid to secure the release of victim without informing anything to the police. But this depends upon the comfort level of family members of the kidnapped child. Some want to play 100% safe and therefore do not inform the police while some are brave enough and are ready and willing to take risk. The latter inform the police.

17. That apart, Ravi Ranjan PW-4, aged 12 years when he deposed and 11 years when he was kidnapped has proved graphic account as to how Ajay Prashad who stayed in his house and had worked with his father enticed him from his house and how the appellant Lalit joined Ajay's company three days after. He has deposed of Ajay threatening him with a gun that unless his father paid him Rs.1.5 lacs, he would not be released. He has deposed the facts in harmony with Dhananjay, Pramod Kumar, Ct. Inderpal and ASI Babu Ram as to what transpired in village Sisor when he was freed from the clutches of his abductors.

18. We are satisfied that there is good and cogent evidence wherefrom involvement of the appellant in the crime stands established.

19. Pertaining to whether there was any threat to the

life or the body of the kidnapped child or whether there was conduct which gives rise to a reasonable apprehension that the victim would be killed or bodily injury caused, suffice would it be to note that as deposed to by Dhananjay Kumar PW-2, the appellant and Ajay had clearly told him in no certain words that if the ransom was not paid, the child would be killed. Thus, the fact that during the period of his illegal custody only co-accused Ajay used to threaten Ravi Ranjan with a pistol and the appellant extended no such threats to the victim is irrelevant.

20. We find no merit in the appeal as also the sentence imposed upon the appellant, which sentence is the minimum sentence prescribed under law i.e. imprisonment for life for the offence of kidnapping for ransom. We dismiss the appeal.

21. Since the appellant is still in jail, we direct that our decision be sent to Superintendent, Central Jail, Tihar to be made available to the appellant.

PRADEEP NANDRAJOG, J

SURESH KAIT, J

FEBRUARY 11, 2010
'nks'