

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

Date of Reserve: 16th November, 2010
Date of Order: 24th November, 2010

+Crl. Rev. P. 404 of 2010
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24.11.2010

MUNNA @ MUNNA KHAN & ORS

... Petitioner

Through: Mr. R.S. Juneja, Advocate

Versus

STATE

... Respondents

Through: Mr. Sunil Sharma, APP for the State with Insp.
Hansraj

JUSTICE SHIV NARAYAN DHINGRA

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

JUDGMENT

1. By this petition the petitioner Munna has assailed order dated 25th May, 2010 passed by learned ASJ whereby the learned ASJ directed for framing of charges against all the accused under Section 364A IPC, 302 IPC read with Section 120-B IPC.

2. Evidence suggests that the victim was ravished and raped before murder, so, charge under Section 377(g) IPC was also framed against accused Shaukat @ Mushir and Mohsin @ Vicky. The contention of petitioner Munna @ Munna Khan is that there was no evidence to show his involvement either in kidnapping or murder and he was wrongly charged by the Trial Court.

3. The facts collected during investigation would show that on 22nd October, 2009 the victim/deceased aged around 24 years was left by some unknown person at casualty of G.T.B. Hospital. The victim was later on identified as Gulistan D/o

Shamshuddin, by her mother. The victim was missing since 14th October, 2009. Mother had also stated that she had got recorded a complaint regarding missing of her daughter at Police Station Bhajanpura on 20th October, 2009 vide D.D. No. 7A. Family had tried to trace the daughter of their own after 14th October, 2009 and on 19th October, 2009 Mohsin @ Vicky, Shaukat @ Mushir and Tasleem Arif had made a telephone call and Mohsin @ Vicky had informed them on telephone that Gulistan was in their possession and if any complaint was made to police, she would be killed. A demand of ₹ 5.00 lakh was made as ransom. Mohsin @ Vicky had also informed that Shaukat @ Mushir, Tasleem Arif and Munna @ Munna Khan were with him. Gulistan was made to talk on telephone with her parents and she was crying on telephone. After 19th October, 2009, a call from Mohsin @ Vicky was received on 22nd October, 2009 informing that Gulistan was not well and they should reach G.T. B. Hospital. When then went to G.T.B Hospital, they found dead body of Gulistan.

4. The postmortem report of deceased showed as many as 17 ante mortem injuries. Doctor opined that some injuries were possible by force of finger or palm, some were possible during struggle put by victim during smothering and compression of neck. Compression of neck was other than ligature on hand. Some injuries were possible because of struggle during sexual assault. One injury no. 15 seemed to have been caused by dragging against a hard surface which includes road. The prosecution had collected evidence to show that all the accused persons were involved in kidnapping and murder of deceased. The learned Trial Court after appreciating the evidence and call details of mobile phone number of complainant and the mobile phone number of accused persons Shaukat @ Mushir, Mohsin @ Vicky and Munna @ Munna Khan, came to conclusion that three accused persons had been making telephone calls to each other as well as to the complainant. Accused Mohsin @ Vicky had made telephone call to the complainant on 18th

October, 2009, which was a missed call. Thereafter, complainant made call to accused Mohsin @ Vicky for spoken for quite some time. Again complainant made call to accused Shaukat @ Mushir and spoken for quite some time. on 19th October, 2009, again Shaukat @ Mushir made a telephone call to complainant. Thus, call details of these telephone calls show that all accused persons were not only in contact with one another but they were also in contact with the complainant.

5. The contention of the counsel for the petitioner is that the petitioner had been falsely roped in only because he was a friend of main accused and had accompanied the accused and the deceased at the time of their marriage. The plea is that the deceased was in love with accused Mohsin @ Vicky for the last many years and they both were interested to marry but their parents were opposing the marriage. Both were major and ultimately left house on 14th October, 2009 and got married at Ajmer on 15th October, 2009. No ransom call was made, as alleged, demanding ₹ 5.00 lakh and it was a concocted story.

6. I consider that this defence put forward by the petitioner cannot be considered at the time of framing of charge and can be considered only at the appropriate stage of trial. The nature of love which accused Mohsin @ Vicky had with deceased Gulistan can very well be inferred from the injuries found on the body of Gulistan and the statement of land-lady where deceased was kept by the accused persons.

7. I consider that there is no infirmity in the order passed by learned Trial Court and the charge was rightly framed against the petitioner under the provisions of 364-A/302/120-B IPC. The revision petition is hereby dismissed.

NOVEMBER 24, 2010
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SHIV NARAYAN DHINGRA, J.