

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Criminal Appeal S-3096-SB of 2010
Date of Decision: November 26, 2015**

Karambir		Appellant
	Versus	
State of Haryana		 Respondent

Criminal Appeal S-218-SB of 2011

Vijay		Appellant
	Versus	
State of Haryana		 Respondent

Criminal Appeal S-244-SB of 2011

Sandeep @ Kala		Appellant
	Versus	
State of Haryana		 Respondent

Criminal Appeal S-245-SB of 2011

Brijesh @ Vijay and another		Appellants
	Versus	
State of Haryana		 Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. R.S.Mamli, Advocate
for the appellant in Crl. Appeal S-3096-SB of 2010.

Ms. Sumanjit Kaur, Advocate
for the appellant in Crl. Appeal S-218-SB of 2011

Mr. Rampal Verma, Advocate
for the appellants in Crl. Appeals-S-244-SB of 2011
and S-245-SB of 2011.

Mr. Dhruv Dayal, Deputy A.G., Haryana.

T.P.S.MANN, J. (Oral)

The aforementioned five appellants were tried for committing offences punishable under Sections 364-A read with Section 149 IPC. Vide judgment and order dated 25/27.11.2010, learned Additional Sessions Judge (Adhoc), FTC, Sonipat, exonerated the appellants of the charge under Section 364-A IPC. Instead, they were convicted under Sections 361/363 IPC and sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.5000/- each and in default of payment of fine, to further undergo rigorous imprisonment for three months.

The case of the prosecution, in nutshell, is that on 30.9.2008, complainant-Sanjay Kumar presented a complaint before Station House Officer, Police Station Sadar, Sonipat stating therein that his daughter-Archna Gupta, aged six years, studying in 2nd standard in D.D. Model Public School, Bandepur went to the school on that day at 8.00 a.m., in school dress with an identity card hanging around her neck and the phone number of her school and names of her parents written thereon. His neighbour Sunil Kumar @ Sonu informed him that he had received a phone call to convey message to the complainant to send Rs.10,00,000/- at Bahalgarh, since his daughter was in caller's possession. The complainant inquired about the matter from the school and was told that a telephone call was received

by Ms. Sharda, a peon of school from mobile No. 9996882028 and the caller wanted to talk with the complainant's wife Sunita. The complainant suspected the kidnapping of his daughter from the school for claiming ransom to the tune of Rs.10,00,000/-. Accordingly, he prayed for taking action against the culprits.

On the basis of the complaint submitted by complainant-Sanjay Kumar, FIR No. 306 dated 30.9.2008 was registered at Police Station Sadar, Sonipat. The police swung into action in order to trace out the accused and the victim. At about 2.30/3.00 p.m., SI Om Parkash noticed two young boys sitting on a motor-cycle and on seeing the police they tried to start the motor-cycle but from the opposite side, Inspector Rajinder Singh and Inspector Yashpal Singh with the police staff came there. With the help of the police officials, both the boys were arrested. One of them was Karamabir while the other was Brijesh @ Vijay. Two mobile phones including the one used for making call to the school of the victim were recovered from accused-Karambir whereas identity card of the victim was recovered from Brijesh @ Vijay. Both the accused were arrested and during interrogation, they suffered disclosure statements and in pursuance of the same, they got recovered the victim from the Arhar fields, near water tank situated within the revenue estate of village Rathdhana, from the custody of their co-accused Vijay and Gopal,

who were arrested. On the demarcation of the victim, rough site plan was prepared by the Investigating Officer. Sandeep @ Kala was arrested on 29.1.2009 and was produced before the Ilaqa Magistrate and taken on one day's police remand. During his interrogation, he disclosed the place from where he had made telephone call at 12.00 noon on the telephone of the school of the victim from his mobile No. 9996882028. He also disclosed regarding the place from where he made telephone call at 1.00 p.m. on mobile No. 9813303717 and demanded Rs.10,00,000/- as ransom through Sunil @ Sonu, the complainant's neighbour and in pursuance of the same demarcated the above mentioned place. He also demarcated the place where his co-accused Vijay and Gopal had kept the victim and police recovered her from their possession.

Upon completion of the investigation and presentation of challan followed by commitment of the case, the appellants were charged for committing offences punishable under Sections 364-A read with Section 149 IPC. However, the trial ended with their acquittal under Section 364-A IPC and, instead, they were convicted and sentenced under Sections 361/363 IPC, as mentioned above.

Having heard learned counsel for the parties and on going through the evidence brought on record, this Court finds

that though PW1 Sunil Kumar @ Sonu did not support the case of the prosecution and was declared hostile yet PW5 Sanjay Kumar, who is the complainant and PW8 the victim herself have testified on oath about the involvement of the accused in the commission of the crime. Despite subjecting both the aforementioned witnesses to lengthy cross-examination, the defence failed to bring on record any material from which it could be said that the appellants have been falsely implicated in the case.

Under these circumstances, no case is made out for any interference in the impugned judgment of conviction passed by the trial Court.

As regards the quantum of sentence of imprisonment, it may be noticed that apart from Sandeep Kumar @ Kala, all the remaining appellants have already undergone an actual period of more than three years and two months out of the sentence of five years imposed upon them. Even Sandeep @ Kala has also undergone an actual period of about one year and three months. The details regarding the period already spent by the appellants behind the bars stand reflected in the orders passed by this Court while suspending their sentences of imprisonment. The appellants have been facing agony of criminal prosecution for the last more than seven years. The victim, namely, Archana Gupta,

was recovered by the police from the possession of Vijay son of Rajmal and Gopal but no harm had been caused to her during her confinement. Taking into consideration the totality of circumstances, this Court finds that no useful purpose will be served by sending the appellants behind the bars so as to undergo their remaining sentences of imprisonment. Ends of justice would be amply met if their substantive sentences of imprisonment are reduced to the one already undergone by them.

Resultantly, the conviction of the appellants for sentences under Sections 361/363 IPC is upheld. Their substantive sentences of imprisonment are reduced to the one already undergone by them. However, the sentences of fine along with their default clauses are maintained. The appeals are, accordingly, disposed of.

November 26, 2015
amit rana

(T.P.S. MANN)
JUDGE