

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.Rev.P. No.723/2015 & CrI.M.A. No.16415/2015

Date of Decision : 23rd August, 2016

NAZAR CHAUDHARY & ANR. PETITIONER

Through Mr.Raj Kishore, Adv.

versus

STATE (NCT OF DELHI) RESPONDENT

Through Ms.Manjeet Arya, APP for the State

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present petition under Section 397 read with Sections 401 of the Code of Criminal Procedure (Cr.P.C.) has been filed on behalf of the petitioners for revision against the impugned order dated 18th April, 2015 passed by learned Additional Sessions Judge-05 (Central), Tis Hazari Courts, Delhi, in a case arising out of FIR No.27/2014 whereby Charge under Section 364-A of the Indian Penal Code has been framed against the petitioners.

2. A thumbnail sketch of the facts of the case is that on 8th February, 2014, a written complaint was made by Ms.Nikhath Fatima, wife of Mr.Mehdi Hassan in Police Station Jama Masjid stating therein that on 7th February, 2014, her husband left home in the evening for visiting Braham

Puri in his car and when he did not return home, she made a call to him upon which he told her that he would come. The complainant, thereafter slept and her husband did not come till morning. On the next day at about 9.45 a.m., her husband made a call to the complainant stating that he and one other person named Pappu, had been kidnapped by Irfan Lala, Sakib and Nazim Chaudhary at about 4.30 a.m. in the morning and that they were demanding a ransom of Rs.20.00 lakhs for the release. The husband of the complainant also stated her to arrange the money and come to Dasna Masoori Road.

3. Thereafter, at about 10.00 a.m., the complainant called Nasir Bhai, one of the friends of Mehdi Hassan and told him the entire incident. It is stated that at about 10.00 p.m., the victims Mehdi Hassan and Pappu@Rifakat Ali were released by the kidnappers on assurance of payment of Rs.20.00 lakhs by one Nasir.

4. It further transpires from the record that the husband of the complainant in his statement to the police, stated that Tasleem, Irfan@Lala, Shekib Wasim@Kana and Wasim@Tiggi, Mohd. Shamim (Photographer) and a person were already standing near the Biryani Kiosk at Chandni Mahal when he along with Pappu, reached there in the morning of 8th February, 2014. He further added that he was called by Saleem who at pistol point, took him and his associate Pappu to the room of one Mohd. Shamim when Tasleem asked him to arrange Rs.5,00,000/-

otherwise he would not spare him. In this act, Mohd. Shakib & Shamim helped Tasleem. It transpires that Irfan@Lala snatched Rs.1,00,000/- which the victim Mehendi Hassan was carrying. It further transpires that one young boy at the instance of Tasleem, who were in the office of Nazar Choudhary, made a call to the wife of the victim and demanded Rs.20.00 lakhs and upon protest, Irfan@Lala, Wasim@Kana, Wasim@Tiggi and Nazar Choudhary started beating the victim Mehendi Hassan and Pappu. Thereafter, Mehdi Hassan called his wife and asked for arrangement of demanded money when his friend Nasir also assured Tasleem that they would pay the demanded money. Thereafter, the victim Mehdi Hassan and Pappu were dropped at Red Fort by Irfan Lala and Tasleem after assaulting them and robbing them of their belongings.

5. In support of his case, learned counsel for the petitioner has submitted that the charge has wrongly been framed against the petitioners on the ground that the person who was kidnapped made a very categorical statement to the effect that the petitioners were not the persons who were present or involved in kidnapping him from Delhi. It is stated that the necessary ingredients for attracting the provision of Section 364A are that the accused kidnapped or abducted the person; kept him under detention after such kidnapping and abduction and the kidnapping or abduction was for ransom.

6. In support of his contention, learned counsel for the petitioner

relies on the pronouncements of the Supreme Court in ***Vikram Singh @ Vicky & Anr. Vs. Union of India & Ors. 2013 (16) SCC 450*** & ***Jaswant Singh Vs. State of Haryana (2000) 4 SCC 484*** with connected appeals.

7. Learned Additional Public Prosecutor appearing for the State, on the other hand, vehemently opposed the grant of the present revision petition on the ground that the petitioners were involved in the commission of offence and have been rightly charged under Section 364-A of the IPC.

8. I have heard learned counsel for the parties at length; gone through the available records and the judgment cited by learned counsel for the petitioners.

9. The impugned order dated 18th April, 2015 ordered for framing of charge against the accused persons for the offence under Sections 364A/395/34 of the Indian Penal Code. However, accused Tasleem used fire arm in commission of dacoity and subsequently, pistol loaded with three live cartridges was recovered from his possession and a prima facie case under Section 397 of the Indian Penal Code read with Section 25 of the Arms Act was also made out against him. The recovery of the looted amount belonging to the victim Mehdi Hassan was made from the accused Shehzada, Mohd. Shamim, Mohd. Shakib, Tasleem Ahmed, Shezada Wasim@Mittal and prima facie case under Section 412 IPC was made out against these accused.

10. For the purpose of this revision petition, this Court confines its observation and decision to the accused/petitioners alone. The statement of the victim Mehdi Hassan was recorded in which he stated that both the petitioners were amongst the kidnappers. He specifically stated that he was taken to a property dealer office at Dasna where both the petitioners came and that this office was owned by petitioner no.1 Nazir Chaudhary. In the statement of victim Mehdi Hassan, he further stated that ransom talks were also made in front of the petitioners. Both the petitioners also gave beating to the victims Mehdi Hassan and Pappu. Victim Mehdi Hassan also stated that he and Pappu were taken back to Delhi and both the petitioners alighted from the vehicle in the midway.

11. Statement of Rifaqat @ Pappu under Section 161 Cr.P.C. was also recorded during the course of investigation who also substantiated the allegations made by Mehdi Hassan with regard to manner of their kidnapping by the accused persons including the petitioners for ransom and robbery of money and articles from them.

12. During investigation, it was also revealed that victims were confined in the office of Nazir Chaudhary where Rashid Ali, petitioner no.2 was also present at the time and that talks of ransom were also made there. It was also stated by the victim Mehdi Hassan that out of the looted amount of Rs.1,00,000/-, Rs.5,000/- were received by the Rashid Ali, petitioner no.2 in Dasna office. Petitioner no.2/Rashid Ali refused to

join the Test Identification Parade (TIP) proceedings.

13. The records available reflects that the petitioners were involved in kidnapping and ransom of Rs.20,00,000/- as well as decoity of Rs.1,00,000/- from the person of victim Mehdi Hassan.

14. In the facts and circumstances, I do not find any infirmity, illegality or perversity in the impugned order dated 18th April, 2015 passed by the learned Additional Sessions Judge, Tis Hazari, Delhi.

15. Consequently, the present revision petition and application are dismissed.

(P.S.TEJI)
JUDGE

AUGUST 23rd, 2016
aa