

CRR-514-2017

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

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Date of Decision: 05.04.2017

Mandeep Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Vikram Singh, Advocate,
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by petitioner-Mandeep Singh against respondents-State of Haryana and others under Section 401 Cr.P.C. challenging the impugned order dated 12.12.2016 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhari whereby accused-respondent Nos.2 to 6 were discharged for the commission of offence punishable under Sections 364 and 379-B IPC and matter was remanded to the Court of learned Chief Judicial Magistrate, Yamuna Nagar at Jagadhari for trial.

I have heard learned counsel for the petitioner and have gone through the record.

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From the record, I find that FIR No.100 dated 24.05.2016, has been registered at Police Station Radaur, under Sections 147, 342, 364, 379-B, 504, 509, 506, 323 and 325 IPC. Learned Additional Sessions Judge, Yamuna Nagar at Jagadhari, vide impugned order dated 12.12.2016, decided the controversy as to what charges should be framed against the accused. The brief facts of the case, as noted down in the impugned order passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhari, are as under:

“2. The case of prosecution, in brief, is that on 24.5.2016, on receipt of telephonic information from Police Control Room, Yamuna Nagar in Police Station Radaur regarding kidnapping of a person by some persons from bus stand, Radaur in a car bearing registration no. HR-02-P-4444, SI Ramesh Chand along with other police personnels reached bus stand Radaur. He, then, received telephonic information from secret informant that the person kidnapped/abducted from bus stand, Radaur has been made confined in a shop located at Radauri Road, Radaur by Subhash etc. On receipt of this information, SI Ramesh Chand reached the spot where number of persons were found gathered. After opening the shutter of the shop, the kidnapped/abducted person, namely, Jasmer Singh was found lying on a cot and his trousers (pajama) was found lying nearby and a lady, who had torn off her own clothes, was also found sitting there. The said Jasmer Singh was brought out from the shop and he (Jasmer Singh) got recorded his

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statement to the effect that he is an agriculturist. He is having three sons and two daughters, who all are married. He had performed the marriage of his daughter, namely, Manju Bala with Rohit Kumar son of Subhash Chand, resident of Radaur on 25.2.2004. After marriage, Subhash Chand and Rohit etc. started harassing, maltreating and beating his daughter, Manju Bala, for demand of dowry. In the year 2006, he got registered a case in this regard in Police Station Bilaspur, however, the accused persons were acquitted in that case. In the year 2015, in-laws of Manju Bala, convened a panchayat and took Manju Bala back to her matrimonial home. At that time, he again gave all articles of marriage. Manju Bala is also having a daughter, namely, Itikia, aged about 11 years. In-laws of Manju Bala, however, again started maltreating and harassing her. In the year 2015, his daughter Manju got registered a case against her father-in-law Subhash and brother-in-law Arvind with the allegations of outraging her modesty, wherein both of them were arrested and the said case is still pending adjudication. Thereafter, Subhash etc. stole gate of Manju's house, regarding which a case was registered, which is also still pending adjudication. It was further reported that in order to take revenge thereof, Subhash etc. got a false case registered under section 376 IPC against them. However, during investigation, the allegations leveled against them were found false by the police and thus, the said FIR was cancelled, rather, a case under section 182 Cr.P.C. against Salindro Devi,

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mother-in-law of Manju and since then, Subhash and his family had a grudge against him and his daughter and they were in search of finding an opportunity to falsely implicate his daughter Manju or other members of his family in some false case. On 24.5.2016, he (complainant Jasmer Singh) had gone to Kurukshetra in connection with some personal work. He had taken milk and vegetables from his house for being delivered to his daughter Manju. He was accompanied by Pappu, a Muslim boy of his village. At about 8 AM, he along with Pappu boarded a bus from Yamuna Nagar. He made telephonic call to his daughter Manju Bala, requiring her to meet him at bus stand, Radaur for collecting the articles. At about 8-45 AM, he reached bus stop, Radaur and made a phone call to daughter Manju Bala, who disclosed that she was offering worship and asked him to leave the articles at a fruit shop, from where she would collect the same later. After leaving the articles at a fruit shop, when he and Pappu were present in the premises of bus stand, Radaur, then a car make Accent of white colour, bearing registration no. HR-02-P-4444 came from the side of Yamuna Nagar. Subhash(father-in-law), Rohit (husband) and Arvind (brother-in-law) of Manju alighted from the car. Subhash proclaimed to teach him (Jasmer Singh) a lesson for getting criminal cases registered against them, upon which all the three started to inflict injuries to him with legs and fist blows. In the meantime, Salindro wife of Subhash and Gurmeet Kaur wife of Arvind also came there on a scooty. Both of them also started hurling abuses to him.

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Salindro, then asked the other assailants to kill him. She further asked them to take him to their shop, where they will treat him. All the five forcibly put him in the car and took him in a vacant shop at Radauri road, where cot etc. were lying. All of them gave him severe beatings and Salindro torn off her clothes. Subhash and his sons snatched his mobile phone, money and removed his trousers (pajama). They laid him on the cot and told that they will get him implicated in a rape case. Thereafter, they left him and Salindro in the shop and closed the shutter thereof from outside. Thereafter, police got him freed. On the basis of this statement, formal FIR bearing no.100 under sections 147,323, 342,364, 379-A, 504,509, 506 IPC was registered on 24.5.2016 in Police Station Radaur (Yamuna Nagar) and the investigating agency swung into action.”

Learned Additional Sessions Judge after hearing learned Public Prosecutor as well as learned counsel for complainant and learned defence counsel found that a *prima facie* case under Sections 147, 342, 365, 504, 509, 506, 323 and 325 IPC is made out against all the accused persons, however, no offence under Sections 364 and 379-B IPC is made out against the accused persons and they were discharged for the said offences. Learned Additional Sessions Judge also held that since none of the offences under Sections 147, 342, 365, 504, 509, 506, 323 and 325 IPC is exclusively triable by the Court of Session, therefore, matter was remanded to the Court of learned Chief Judicial Magistrate, Yamuna Nagar at Jagadhari for further trial by him or by the competent

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Magistrate.

Perusal of the record shows that no offence punishable under Section 364 IPC is made out against the accused, as they were not armed with any deadly weapon and in no way, it can be held that motive of kidnapping or abduction was to kill. There is nothing on record to show such intention of the accused. Therefore, learned Additional Sessions Judge has rightly concluded that offence punishable under Section 364 IPC is not made out. Furthermore, Section 379-B IPC is made out if the snatching is committed by causing hurt or wrongful restraint or by fear of hurt. Learned Additional Sessions Judge held that a bare reading of the statement of complainant goes to show that the accused persons had purposely removed the belongings of the complainant i.e. his mobile phone and money etc. during the process of illegally confining him in a shop and nothing has been recovered from the possession of the accused persons which has been alleged to be snatched from the complainant. Learned Additional Sessions Judge further held that even the complainant has nowhere mentioned in the FIR that he was abducted or kidnapped with an intent to kill him. Rather, the complainant has specifically levelled allegations that the accused persons in order to take revenge of earlier criminal litigation initiated by him (complainant) against them and in order to teach him a lesson for that, assaulted upon him at bus stand Radaur and thereafter, on the provocation of accused Salindro, all the accused persons took him to

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their shop located at Radaur Road, Yamuna Nagar where he was to be treated in the manner, they like. It also specifically emerges from the statement of the complainant made before the police that after reaching at the spot, the accused persons made him clear that they will falsely implicate him in a rape case and in this regard accused Salindro also torn her clothes and all the accused persons also removed his trouser and thus, there is nothing which goes to show that the accused persons had kidnapped the complainant in order to eliminate him.

From the record, I find that the impugned order is correct, as per evidence and law. No illegality has been committed by learned Additional Sessions Judge while passing the impugned order.

Resultantly, finding no merit in the present revision, the same is dismissed.

05.04.2017

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Whether speaking/reasoned	:	Yes
Whether reportable	:	No