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

+ **CRL.L.P. 120/2018**

STATE

..... Petitioner

Through: Ms. Kusum Dhalla, APP for State.

versus

LIDAR KHAN @ SAHIL & ORS.

..... Respondents

Through:

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

% **16.02.2018**

CRL.M.A. 2952/2018 (Exemption)

1. Allowed, subject to all just exceptions.

CRL. M.A. 2951/2018 (Delay of 23 days in filing)

2. For the reasons stated in the application, the delay of 23 days in filing the leave petition is condoned. The application stands disposed of.

CRL.L.P. 120/2018

3. This is a petition by the State seeking leave to appeal against the impugned judgment dated 17th October, 2017 passed by the learned Additional Sessions Judge-02 (FTC), New Delhi acquitting the Respondents of the offences under Section 120B read with Section 365, 364A IPC; Section 365 IPC and 364A IPC.

4. The case of the prosecution was that the Respondents had hatched a conspiracy and pursuant thereto, abducted a 17 year old boy, Sonu, from Geetanjali Park, Gali No. 6, Sagarpur on 25th February, 2013. The

prosecution case is that the complainant Chandan Kumar Sharma informed ASI Hari Singh that he had received a ransom call on 26th February, 2013 at 7.30 am in the morning on his mobile No.9136191803 from the mobile phone No. 8512048704 of Sonu (the victim). The caller told him that Sonu was in their custody and asked for Rs. 1 lakh to be paid for his release. Rajiv, the brother of Sonu, is also stated to have independently come to know of the kidnapping of Sonu.

5. The complainant again received a call from a mobile phone No.9899522019 asking him to deliver Rs. 80, 0000 at Govind Puri. The police prepared two dummy packets of fake currency and kept them in a polythene bag and gave it to the complainant. The police accompanied the complainant to the agreed upon spot at Govindpuri but neither the kidnappers nor the victim turned up there. Upon the instructions of the police, the complainant called on the number and was asked to come to Ghaziabad, near the old bus stand. Another call was made to the complainant thereafter, asking him to come near Hindon river.

6. It is stated that the complainant along with the police party reached near Hindon River, when at around 11 pm when a Maruti van came from the Ghaziabad side and stopped. When one person got down from that van and collected the polythene bag from the complainant, the police party overpowered that person as well as others sitting in the Maruti van, one of whom was identified by the complainant as Sonu.

7. According to the prosecution, phone No.9899522019 was said to belong to Lidar Khan (A-1) which was also found inside the Maruti van along with

the other co-accused.

8. The Trial Court has disbelieved the evidence *inter alia* on the ground that it was highly unlikely that the victim who was working as a waiter on daily wages and did not even have a permanent job would be abducted for a ransom amount 80,000/-. It was also held to be unlikely that someone could abduct a 17 year old boy on a motorcycle in broad daylight and take him to a distance more than 20 kilometres away without being noticed by the public or any police party. Importantly, although the DD entry was recorded at 12:30 PM on 26th February, 2013 on the basis of the statements of the complainant that he received a ransom call that morning at 7.30 am, the very first call made from the mobile No. of Lidar Khan was about 04:00 PM. There was no call received demanding ransom at 07:30 or 08:00 AM on the mobile phone of the complainant. The prosecution also did not examine one Naresh Kumar who even according to the prosecution was running an institute in Govind Puri where the victim had purportedly been kept by the abductors. There is no explanation offered for not examining the said person. Rajiv, the real brother of the victim, was neither examined nor the CDRs of his mobile phone, on which he is supposed to have received the ransom call from the abductors, was examined. Likewise Constable Dharamraj and Head Constable Uma Nand who formed the raiding party were not examined. There was no independent public witness to prove the release of the victim from Ghaziabad. Importantly, the local police of Ghaziabad had not been informed either before or after the release of the victim. In his evidence, the victim stated that he did not have any mobile phone whereas the complainant had stated that he had received a call from

the mobile phone of the victim.

9. From the side of the accused, the defence on behalf of Lidar Khan (A-1) was that the complainant had taken a loan of Rs.1.5 Lakhs from him and was unable to pay it and as the complainant was close to ASI Hari Singh, he concocted a false story in order to falsely implicate A-1.

10. The Trial Court has analyzed the case of the prosecution in detail and has come to the conclusion that the prosecution has failed to prove the case beyond reasonable doubts.

11. The Court having heard the Learned APP for State and having examined the evidence in some detail is not persuaded to come to a different conclusion. No ground is made out for grant of leave to appeal. The petition is accordingly dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

FEBRUARY 16, 2018

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