

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

Date of decision : 12.12.2019

(I) CRA-D-1237-DB-2010 (O&M)

Amandeep

...Appellant

Versus

State of Punjab

...Respondent

(II) CRA-D-442-DB-2011 (O&M)

Sikander Kumar

...Appellant

Versus

State of Punjab

...Respondents

**CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr. Kewal Singh, Advocate,
for the appellant in CRA-D-1237-DB-2010.

Mr. S.S. Chadha, Advocate,
and Mr. Kewal Singh, Advocate/*amicus curiae*,
for the appellant in CRA-D-442-2011.

Mr. Bhupinder Beniwal, AAG, Punjab.

JITENDRA CHAUHAN, J.

The captioned two appeals are being disposed of by this single judgment, having arisen out of the common impugned judgment and order

dated 09/10.11.2010, passed by learned Additional Sessions Judge, Jalandhar (hereinafter referred to as 'the trial Court') whereby, the accused-appellants, stand convicted under Section 364-A of the Indian Penal Code (in short, 'the IPC'), and sentenced to undergo imprisonment for life along with fine of ₹10,000/- each with default stipulation.

Brief facts of the present case as noticed in para No.2 of the judgment passed by the trial Court are as under:-

“As per the facts of the case, on 25.9.2008, SI Harpreet Singh and his police party had gone for routine patrolling and they were present at Bus Stand Partapra. There Amarjit Kaur complainant gave her statement to the police that she is resident of Partapra and she is mother of a daughter Lovedeep Kaur, who was 14 years old and son Tejinder Singh, who was 11 years old. Her son was studying in Manav Sehyog School, Shahpur. On 25.9.2008, her son was on leave. At about 6.45 a.m., he took the cycle and went towards Tube-well and did not return home. At about 8.00 a.m., she received telephone call on Mobile Phone No.98723 947899 from her son Tejinder Singh, who disclosed that he was kidnapped by some persons. The telephone was snatched from her son and one person raised demand for money. He gave the assurance that her son would be returned. The call was received from mobile No.98886 74121. Some unknown persons had kidnapped her son for the sake of money. She along with her family members tried to search her son. On the basis of this statement FIR was recorded under Section 364-A of the IPC. The investigation was

started. The site plan was prepared. From the spot one cycle make Nova was taken into police possession. On 26.9.2008 again statement of Amarjit Kaur complainant was recorded. She disclosed that she had received another telephone call from the same number and cash of Rs.30 lakhs were demanded from her. It was further stated that in case their demand was not satisfied they would kill her son Tejinder Singh. On 26.9.2008, the Investigating Officer, along with DSP Navjot Singh and police party was present at village Bhode. A call was received from HC Surinder Singh that some suspected persons are staying in the house of Gurdev Kaur, resident of Samrawan Colony. On the basis of this information, a raid was conducted at the house of Gurdev Kaur situated at Samrawan Colony, Nurmahal. From the said house the child was recovered from the Chobara i.e. a room situated on first floor. At that time Tejinder Singh minor child was sitting on the bed. Two persons were also sitting with him, who disclosed their names as Sukhjinder Singh and the other disclosed his name as Sikandar Kumar. One lady Gurdev Kaur, sitting in the courtyard was also apprehended. From the possession of Sukhjinder Singh one Toy pistol held in his right hand was also recovered. On young man managed to escape from there whose name was disclosed as Amandip. The complainant Amarjit Kaur was called who identified her child Tejinder Singh. The child was handed over to the mother and a memo was prepared in this regard. One car used in the occurrene bearing No.PB-08-Z-3569 was recovered from Janj Ghar and it was taken into police possession. The toy

pistol make King Cobra recovered from the possession of Sukhjinder Singh accused was taken into police possession. Its outer sketch was also prepared. Rought site plan of the place of recovery of the child was also prepared. All the three accused apprehended from the spot were arrested in this case. The other accused Tejinder Singh son of Baldev Singh was also arrested on 26.9.2008. On the same day Mohinder Singh gave statement regarding the extra judicial confession made by Amandip Singh @ Amna, who admitting the facts of the case, requested Mohinder Singh that he should be produced before the police. Amandip Singh @ amna was arrested in this case. The police remand of the accused was taken on 27.9.2008. Amandip Singh @ Amna, gave the disclosure statement regarding Sim card of Mobile Phone number 98886 74121, which he had concealed in his shop at Boota Mandi. He further stated that this place was known to him and he could get recovered the Sim Card. He led the police party as per disclosure statement and got recovered the Sim Card which was concealed by him. The Investigating Officer had taken the same in to police possession. On 29.9.2008, Sukhjinder Singh accused was interrogated and motorcycle used in the occurrence was recovered as per his disclosure statement and it was taken into police possession. During investigation, it was revealed that the Mobile Phone used in the occurrence belonged to Mohd. Alam, regarding which DDR was lodged with the police. At the time of arrest of the accused, their personal search was also conducted. The entire case property was handed over to the MHC. The

identification parade of the accused was also got conducted from Tehsildar on 3.12.2008. The minor child Tejinder Singh had identified Gurdev Kaur @ Debo. After completion of all the formalities of the investigation all the accused were challaned in this case.”

After completion of investigation and upon presentation of *challan*, the accused were charge-sheeted for the offence punishable under Section 364-A IPC, to which all the accused pleaded not guilty and claimed trial.

In support of its case, the prosecution has examined Amarjit Kaur, complainant as PW-1; Tejinder Singh as PW-2; SI Sadhu Singh as PW-3; Gurdial Chand as PW-4; HC Baljinder Singh as PW-5; SI Harpreet Singh as PW-6; Baldev Raj, Patwari as PW-7; Damandeep Singh, Nodal Officer Vodafone as PW-8; Harminder Singh, Tehsildar as PW-9; HC Nirlep Singh as PW-10; SI Narinder Singh as PW-11; and HC Swaraj Thaper as PW-12.

Thereafter, statements of the accused under Section 313 Cr.P.C were recorded and entire incriminating circumstances appearing in the prosecution evidence were put to the accused to which they denied and pleaded false implication. However, they did not lead any evidence in defence despite opportunity.

After considering the entire facts and circumstances of the case and appreciating the evidence brought on record, learned trial Court convicted and sentenced accused-appellants, Amandeep Singh and Sikander

Kumar, whereas, co-accused Sukhjinder Singh, Tejinder Singh and Gurdev Kaur were acquitted.

Hence, the instant appeals.

On behalf of appellant-Amandeep, it has been contended that he was not arrested from the place of occurrence. The appellant had himself surrendered before the Police. Whereas, all the accused who were arrested on the spot stand acquitted. The testimony of the minor child, Tejinder Singh, who appeared as PW-2, does not inspire confidence. There is nothing in his testimony which could connect the present appellant with the alleged crime.

On behalf of appellant-Sikander Kumar, it is contended that no recovery has been effected from the appellant which could connect him with the alleged offence. The minor child, Tejinder Singh, has nowhere stated that it was the appellant who had kidnapped him. Moreover, it has been specifically stated that the appellant came present on the next day.

Learned State counsel while opposing the instant appeals has submitted that the prosecution has been successful in bringing home guilt of the accused. The victim, a minor child of about eleven years, has specifically deposed against the appellants while appearing as PW-2. There was no motive with the police to falsely implicate the appellants.

Heard.

As per the prosecution story, mother of the victim, Amarjit Kaur, complainant, informed the police on 25.09.2008 at about 4.30 p.m. that her

son Tejinder Singh, aged about 11 years had been kidnapped. She stated before the police that her son had gone out for bicycle ride at about 6.45 a.m. but did not return back. At about 8.00 a.m., she received a telephone call on the mobile phone from some unknown number. When she picked the phone, her son, Tejinder Singh spoke and informed her about his kidnapping by some person. Thereafter, the phone was snatched from her son and was told that her son had been kidnapped for ransom. The complainant and other family members tried to locate the child but in vain. On the next day, i.e. 26.09.2008, the complainant got recorded her supplementary statement to the effect that she had again received a call from the same mobile phone, whereby, the kidnappers had raised a demand of ₹30.00 lakh for the release of her son. She was also threatened that in case, their demand was not met, the child would be done to death. Meanwhile, on the basis of information received by the Investigating Officer, a raid was conducted in the house of Gurdev Kaur, co-accused, from where the child was recovered. Sukhjinder Singh and Sikander Kumar were also apprehended from the spot, whereas, one person managed to escape.

In this case, the statement of the child witness, Tejinder Singh, assumes paramount importance. In this testimony, he has categorically stated that while he was riding bicycle, Tejinder Singh, co-accused, had told him to go towards the well. While he was proceeding to the well, he saw one big car on the *pucca* road with two occupants. On seeing him, both the occupants alighted from the car and kidnapped him. He was confined in the

Chobara of a house. In his statement, this witness has specifically named Amandip Singh, appellant, the person who had snatched the phone when he was made to talk to his mother. He has also stated that when the raid was conducted, Amandip Singh had managed to escape. In her statement recorded under Section 313 Cr.P.C., co-accused Gurdev Kaur has also stated that the minor child had been brought to her house by her nephew, Amandip Singh, along with other persons. When she suspected some foul play and asked them to leave, she was threatened at pistol point to keep mum.

Similarly, regarding co-accused/appellant Sikander Kumar, the victim has stated that he had come to the *Chobara* on the next day and told him that in case their demand of ransom was not satisfied, he would be done to death. Thus, both the appellants have been attributed specific roles. Whereas, in his cross-examination, the victim has categorically stated that Sukhjinder Singh and Tejinder Singh neither kidnapped him nor demanded any money from her mother. Similarly, as regards the role of Gurdev Kaur, the victim has stated that she did not demand money from his mother. Rather, she had been enquiring from him about the kidnappers and was also warned by the accused not to raise alarm lest she may be killed.

Further, when the raid was conducted by the police party headed by SI Harpreet Singh, PW-6, appellant-Amandip Singh had managed to escape, while Sikander Kumar was apprehended from the spot. Amandip Singh suffered disclosure statement which was recorded by the Investigating Officer on 27.09.2008. At his instance, the sim card of the mobile phone

was recovered vide recovery memo Ex.PF.

In view of the above discussion, this Court feels that the prosecution has been successful in bringing home guilt of the accused-appellants and their conviction recorded by learned trial Court is based upon correct appreciation of facts and evidence on record.

Accordingly, the instant appeals are, hereby, dismissed. The appellants are stated to be on bail. Their bail bonds shall stand forfeited. They be taken into custody forthwith to suffer the remainder of sentence.

(JITENDRA CHAUHAN)
JUDGE

(ARCHANA PURI)
JUDGE

12.12.2019
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Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No