

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

201

**CRM-A-1719-MA-2018 (O&M)
Date of Decision : 09.05.2019**

State of Haryana

... Applicant

Versus

Kamru and others

...Respondents

**CORAM:HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. Pritam Saini, Addl. A.G. Haryana.

HARNARESH SINGH GILL, J.

The State of Haryana has filed the present application under Section 378(4) Cr.P.C. for grant of leave to appeal against the judgment dated 12.01.2018 passed by the learned Additional Sessions Judge, Mewat.

Vide impugned judgment, the trial Court acquitted the respondents of the charges under Sections 365, 384, 341, 344, 364-A of Indian Penal Code.

As per the prosecution story, the complainant Surjan son of Mehmooda, moved an application to SHO, Police Station Nagina stating therein that his nephew, namely, Ali Mohammad had been kidnapped while returning to his village on 20.11.2014 at 03.00 p.m. It was further stated that when they reached near Saini School, they were intercepted by a Pickup Van and a motorcycle. Around 30 people including Israk, Wahid, Aarif, Saddam son of Rajjak alighted from the Pickup Van and started assaulting Ali Mohammad with sticks and fist blows. Ali Mohammad was kidnapped in the pickup van. Both the vehicles were of black painted number plates.

The two wheeler bearing registration No. RJ-2CS-2697 was abandoned at the spot.

The accused persons had committed offence punishable under Sections 365, 384, 341, 344 and 364 A read with Section 120B of IPC and were accordingly charge-sheeted.

To prove its case, the prosecution had examined 10 witnesses. While taking into consideration the evidence on record, the learned Trial Court vide judgment dated 12.01.2018 acquitted the respondents of the charges framed against them. It has been taken into consideration that the statement of Ali Mohammad, who stepped into the witness box as PW-5, was not reliable. Being star witness, he had stated that as many as 40 persons were involved in the alleged abduction, out of whom 23 persons were found innocent by the police. They were never proceeded against by the police or subsequently by the Court. Ali Mohammad had also failed to identify even one person by name as sodomiser, whereas he had alleged subjugation to sodomy by six persons. He had not disclosed this fact to the Medical Officer, who had conducted Medico Legal Examination on his person. Complainant-Surjan had appeared as PW-8. In the complaint, he had stated that his nephew Ali Mohammad was carrying cash but he had not specified as to how much amount he was carrying. A vague statement was made by the complainant that Ali Mohammad was carrying ₹50,000/- to ₹60,000/-, but the same was never recovered by the police from the respondents at any point of time. This witness had further alleged that the abductors had demanded the ransom of ₹10 Lacs from his son and wife but none of them came forward to substantiate this version nor the demand of ransom had been brought on record by any of the witnesses.

After a close scrutiny of the evidence i.e. statements of alleged victim Ali Mohammad as PW-1 and his uncle (complainant), namely, Surjan, examined as PW-8, the court has drawn the right conclusion that hopeless attempt had been made by them to involve the respondents in a false case. A concocted story had been made by them only to twist the facts for obtaining personal gain. No prudent mind would believe that Ali Mohammad was kidnapped by the respondents for more than 20 days and during this period, he was allowed to talk to his family members on regular basis. As per the prosecution story he was successful in running away from the clutches of the respondents and eventually had appeared before the police.

The defence version is highly probable that a story was tailor made by the complainant in order to create plausible defence in a criminal case filed earlier by his wife against him and his family members for the alleged commission of offence punishable under Section 498-A IPC.

Learned counsel appearing for the applicant could not point out any material illegality or perversity in the impugned judgment of acquittal, which may warrant interference by this Court in the present application seeking leave to appeal.

Consequently, the application seeking leave to appeal is dismissed. Leave to appeal is declined.

(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

09.05.2019
pooja saini

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No