

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(i) **Crl. Appeal No.D-924-DB of 2016**

Sukhdev
...Appellant

VERSUS

State-U.T. Chandigarh
...Respondent

(ii) **Crl. Appeal No.D-925-DB of 2016**

Sanjeev Kumar
...Appellant

VERSUS

State of U.T., Chandigarh
...Respondent

(iii) **Crl. Appeal No.D-947-DB of 2016**

Ajit Singh
...Appellant

VERSUS

Union Territory Chandigarh
...Respondent

(iv) **Crl. Appeal No.D-95-DB of 2017**

Nitin
...Appellant

VERSUS

U.T. of Chandigarh
...Respondent

(v)

Crl. Appeal No.D-738-DB of 2017

Anil Kumar

...Appellant

VERSUS

Union Territory, Chandigarh

...Respondent

(vi)

Crl. Appeal No.D-1074-DB of 2018

Pardeep Malik

...Appellant

VERSUS

The State of U.T. Chandigarh

...Respondent

Date of Decision: June 04, 2020

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

Present: Mr.Ashok Bhardwaj, Advocate
for the appellant (in CRA No.D-924-DB of 2016).

Mr.R.S.Mamli, Advocate
for the appellant (in CRA No.D-925-DB of 2016).

Ms.Isha Goyal, Advocate
for the appellant (in CRA No.D-947-DB of 2016).

Mr.Vishal R. Lamba, Advocate
for the appellant (in CRA No.D-738-DB of 2017).

Mr.A.P.Kaushal, Advocate
for the appellant (in CRA No.D-95-DB of 2017 and
CRA No.D-1074-DB of 2018).

Mr.J.S.Toor, Addl. Public Prosecutor,
for the respondent-U.T. Chandigarh.

ARCHANA PURI, J.

Challenge in the bunch of appeals in hand is to the judgment of conviction dated 14.09.2016 and order of sentence dated 16.09.2016 passed by learned Addl. Sessions Judge, Chandigarh, vide which all the appellants were held guilty and convicted for the commission of offences under Sections 364-A, 120-B, 395 read with Section 397 IPC, 342, 411 IPC. Besides the aforesaid, one of the appellant, namely Anil was also convicted under Sections 474 and 471 IPC. The detail of sentencing of all the appellants is herein given:-

<i>Accused</i>	<i>Under Sections</i>	<i>Sentence</i>	<i>In default</i>
All accused	Section 364-A IPC	Imprisonment for life along with fine of ₹5,000/- each.	RI for 30 days
All accused	Section 120-B IPC	Imprisonment for life along with fine of ₹5,000/- each.	RI for 30 days
All accused	Section 395 read with Section 397 IPC	RI for ten years along with fine of ₹3,000/- each.	RI for 20 days
All accused	Section 342 IPC	RI for one year along with fine of ₹500/- each.	RI for 7 days
All accused	Section 411 IPC	RI for one year along with fine of ₹1,000/- each.	RI for 7 days
Anil	Section 474 IPC	RI for two years along with fine of ₹2,000/-.	RI for 10 days
Anil	Section 471 IPC	RI for two years along with fine of ₹2,000/-.	RI for 10 days

All the sentences were ordered to run concurrently.

The background facts in nutshell are as herein given:-

That, on 10.04.2012, Gurneet Singh Chatha informed the Police

Control Room, Chandigarh, from Canada that his younger brother Navneet

Singh Chatha, r/o H. No.1323, Sector-18, Chandigarh, has been kidnapped by some unknown persons and ransom amount of ₹1 crore has been demanded. The phone call was received by the Duty Officer PCR and thereupon, the police party from Police Station Sector-19, Chandigarh, visited H. No.1323, Sector-18C, Chandigarh, where a servant, namely Amit Kumar s/o Ram Naresh was present, who had got recorded his statement to the police, on the basis whereof, FIR was registered. As per the version of Amit Kumar, he is working in the ibid house as servant and caretaker. Sh.Harinder Pal Singh Chatha is the owner of the said house, who along with his family resides in Canada and visits Chandigarh, from time to time.

On 02.04.2012, Navneet Singh Chatha, son of owner of the house came to Chandigarh. On 09.04.2012, after taking meals, at about 3.00 p.m., Navneet Singh Chatha had gone somewhere in his Honda Accord car bearing registration No.CH-03X-6271 of white colour and did not return back to his house till night. At about 2:00 a.m., Amit Kumar received a call from Navneet Singh @ Romi on his mobile No.9988007773 that he is sending some persons to him and asked him to hand over the money lying in the almirah in his room. After sometime, Amit Kumar again received a phone call from Navneet Singh that the said persons were standing outside the house and to open the door. On opening of the main gate, Amit Kumar found two young boys standing outside and one of them had earlier come to meet Navneet. As per the directions of Navneet Singh Chatha, he handed over the money to those boys. After the arrival of the police, in pursuance of the information passed on to the police on 10.04.2012 by Gurneet Singh Chatha, statement of Amit Kumar was recorded, on the basis whereof, FIR

was registered. Thereupon, a special investigation team was formulated.

During the course of investigation, in pursuance of the secret information, the police had visited the area of Village Chibba, District Kurukshetra, Haryana. Initially, one accused namely Nitin was intercepted, while in Swift Dezire car bearing No.HR-14H-2873 and on interrogation, Nitin disclosed about there to be five other persons hidden in one tubewell and Navneet Chatha was also there. The said Swift car was recovered from his possession. The tubewell so disclosed was raided where from, other accused were also rounded off. At first instance, the police intercepted three occupants of the Honda Accord bearing registration No. CH-03X-6271. Anil Kumar was on the driver's seat and on the adjoining seat, Sanjeev was sitting and Sukhdev was on the rear seat. They had attempted to flee but they were apprehended by the police. Anil had raised voice alarming his companion Pardeep that police had reached. Aforesaid Pardeep fired on the police party from inside the room and police had also fired in retaliation, in order to apprehend the kidnappers and to rescue the victim. After successful operation, Pardeep and Ajit were apprehended and victim Navneet Chatha was rescued safely. One .32 bore pistol and some cash amount was also recovered. Even, separate FIR No.18 dated 10.04.2012 under Sections 307, 148, 149, 342 IPC and Section 25 of the Arms Act was also registered against the accused except Nitin. Even the cloth strings with which Navneet was tied, were also taken into police possession. Navneet Singh Chatha had also disclosed to the police party about having over heard the conversation between the accused persons about they were having plan to kill him after injecting certain medicine. On further search of the tubewell, nine injections and five syringes were also found and taken into custody. Besides cash amount, passport of Navneet Singh Chatha was recovered.

During the course of investigation, Amit Kumar identified Anil and Sanjeev to be the same persons, who had collected money from the house. Even, ownership of Swift car bearing registration No.HR-14H-2873 was got verified and it was found to be having fake number. Also, it came further in the investigation about the said Swift Dezire car to have been snatched at gun point by the accused persons from Sector-5, Panchkula, relating to which, separate FIR had been registered. The registration number, which was displayed on the Swift car, at the time of interception of Nitin, was found to be of one Eicher Tractor. Thereupon, addition of offences under Sections 411, 468, 471, 473 and 474 IPC was also made. Statement under Section 164 Cr.P.C. of the victim was recorded.

On completion of investigation, challan was presented against all the accused namely Sukhdev, Sanjeev Kumar, Ajit Singh, Nitin, Anil Kumar, and Pardeep Malik. After compliance of Section 207 Cr.P.C., the case was committed to the Court of Session.

In pursuance of the commitment proceedings, on the basis of material coming forth, charge was framed under Sections 364-A, 395 read with Section 397, 342 read with Section 34, 411, 474 and 471 IPC, against all the accused, to which they pleaded not guilty and claimed trial.

In endeavour to establish its case, the prosecution examined as many as 20 witness, besides adducing documentary evidence. The witnesses, so examined as **PW-1 Gagandeep Singh, PW-2 Anil Kumar Gupta, PW-3 Amit Kumar, complainant, PW-4 Head Constable Yash Pal, PW-5 Inspector Rajesh Kumar, Incharge CIA, Kurukshetra, PW-6 SI Sohan Lal, PW-7 ASI Vijay Kumar, PW-8 Head Constable Satpal,**

PW-9 Surjit Singh, Assistant Nodal Officer, Idea Cellular Limited, PW-

10 Ajay Kumar, PW-11 Jitender Sekhon, PW-12 ASI Nasib Singh, PW-13 Tarun Singla, PW-14 Dr.Madhur Verma, PW-15 Head Constable Piara Singh, PW-16 Damandeep Singh, Nodal Officer, Vodafone, PW-17 Ashish Abrol, PW-18 Inspector Amanjot Singh, Investigating Officer, PW-19 Sh.Bharat Singh, SDM-cum-Registration Authority, Jhajjar and PW-20 Navneet Singh Chatha. Prosecution also tendered into evidence certified copy of order dated 06.11.2012 Ex.P50 and Registration Certificate of vehicle bearing No.HR-14H-2873 Ex.P51 and closed the evidence.

On closure of the prosecution evidence, all the incriminating circumstances appearing in the prosecution evidence were put to the accused in their respective statements under Section 313 Cr.P.C. However, the accused denied those allegations and pleaded their innocence and asserted their false implication. They have also raised the plea that they were forced to sign blank and printed papers, so as to create false evidence against them. They were not arrested from the place, as projected by the police. Also, the plea taken by the accused is that Navneet Singh Chatha is the high profile person having connections with politicians and highly placed police officials. It is further the plea that false story has been cooked up by Navneet Singh Chatha in connivance with the police.

Furthermore, accused Sukhdev Singh has taken the plea that on the day of occurrence i.e. on 10.04.2012, he was going to village Udarsi on his motorcycle bearing registration No.HR-07N-1958 to meet his business partner and friend Sushil Kumar s/o Jangsher Singh. On the way, he was stopped by the police, who demanded his motorcycle but when he refused to

motorcycle was taken into possession by the police. He had not even seen victim Navneet Singh Chatha.

Even, accused Nitin has raised specific plea that he was picked up by the police from his room at H.No.887, Sector-4, Panchkula, on 10.04.2012, where he had been residing on rent. He was student of B.E. Final from Swami Devi Dayal Institute of Engineering and Technology.

In defence, accused Ajit Singh examined **DW-1 Ankit** and accused Sukhdev examined **DW-2 Krishan Pal, Draftsman, DW-3 Sushil Kumar, DW-4 Harpreet Singh, DW-5 Head Constable Jasbir Singh and DW-6 Subhash Chander, Deputy Superintendent Jail, Kurukshetra** and counsel for accused Sukhdev also tendered into evidence original RC of vehicle No.HR-07N-1958 Ex.D4 and then defence evidence was closed. However, no evidence was led in defence by other accused.

After hearing learned Public Prosecutor, learned counsel for the accused and on appraisal of the evidence, brought on record, vide impugned judgment of conviction and order of sentence, appellants were convicted and sentenced, as detailed in the earlier portion of the judgment

Feeling aggrieved by the aforesaid judgment of conviction and order of sentence, all the appellants-convicts have filed the appeals in hand, the detail whereof, has been given in the head note of the judgment.

Trial Court record was requisitioned.

We have heard learned counsel for the appellants, learned State counsel and have perused the record.

At the very outset, learned counsel for the appellants, in unison, have submitted that the impugned judgment is based on conjectures and

been able to establish its version, beyond shadow of reasonable doubt. Throughout the arguments, much emphasis has been laid upon abduction for ransom, which is requisite ingredient of Section 364-A IPC, having not been established. There is stated to be amiss to so establish the demand of ransom amount from the victim or his brother, as so projected by the prosecution. In fact, it is submitted that victim himself stated to be having property dealing interaction with Anil Kumar and he had voluntarily proceeded, on the relevant date and that being so, the question of abduction for ransom as well as wrongful confinement, so asserted, do not stand established. Rather, it is submitted that doubt is raised about the truthfulness of the prosecution version. Even plea of false implication in the light of the DWs so examined, has been raised. Thus, summing up their arguments, learned counsel for the appellants have made a prayer for acceptance of the appeals.

On the contrary, learned State counsel has assiduously submitted that learned trial Court has appraised the evidence in correct perspective and the manner of occurrence, so caused by the accused, stands sufficiently established. Thus, he made a prayer for dismissal of all the appeals.

The ball was sent rolling by Amit Kumar complainant, who is servant of the victim Navneet Singh Chatha and who has stepped into witness box as PW-3. Another material witness is Navneet Singh Chatha himself, who has deposed as PW-20. Besides, the same, another material witness to establish the linkage of demand of ransom amount is PW-15 Head Constable Piara Singh, who allegedly received information from

brother of the victim, about kidnapping of his brother (Navneet Singh

Chatha). It is the claim of the prosecution that Navneet was abducted by the accused persons and they demanded ransom amount. How and in what manner, the demand of ransom was raised, is of utmost importance. It is the version of the prosecution that on coming to know about the victim having money with himself in the car, accused had further also enquired about the extent of money the victim had in his house and asked him to make a call to his servant Amit Kumar to hand over the money allegedly demanded by the accused. It has been so deposed by the victim PW-20. Even, PW-3 Amit Kumar has specifically so stated, in his statement **Ex.P8**, on the basis whereof, FIR **Ex.P27** was registered, about having received phone call from Navneet Singh Chatha, to give money to the persons, who shall come to his house. He has also deposed about receipt of the phone call and making of two other calls. To so establish the phono-connectivity, the prosecution has examined PW-16 Damandeep Singh, Nodal Officer, Vodafone, who had brought the record of the mobile No.9988007773 and deposed that the same was issued in the name of Amit Kumar PW-3. He proved various documents relating to the issuance of the mobile number in the name of Amit Kumar. Further, he also proved the call details of the above-said mobile number for the period from 08.04.2012 to 13.04.2012, which is **Ex.P40**. Perusal of this call detail does show interchange of calls on the mobile number of Amit Kumar, which is having the aforesaid number, at the relevant time. However, it is pertinent to mention that the call had been received from the mobile number 9914192473. To so establish the connectivity with this mobile number, the prosecution has examined PW-9 Surjit Singh, Assistant Nodal Officer, Idea Cellular Limited, who on the basis of the record, brought by him, has deposed about the said mobile number 9914192473 to have been issued to

Tarun Singla S/o Rajinder Kumar Singla, r/o H.No.2930, Sector-37C, Chandigarh and proved the various documents relating to the same. The call detail has also been proved as **Ex.P33**. It also shows about the interchange of calls with the mobile number of Amit Kumar PW-3. Said Tarun Singla has also been examined as PW-13. He has categorically stated that he had not purchased any mobile connection in respect of 9914492473 and voluntarily, he stated that he is only having mobile No.9417249229 for the last 7-8 years and had never used any other mobile number. He also further stated that he had not sought any connection from Idea mobile for anybody else and he does not know any other person Navneet Singh Chatha. Since the said witness did not support the prosecution version, he was declared hostile and was cross-examined by the public prosecutor and therein also, he has categorically denied about himself having obtained connection of mobile No.9914492473 from Idea mobile company for its use by his friend Navneet Singh Chatha. Rather, in the cross-examination conducted by the defence counsel, he had also stated about having filed the complaint as he was not joined in the investigation in this case.

In the light of testimony of aforesaid witness, it is pertinent to mention that to establish the phono-connectivity, at the relevant time, the testimony of the victim is important, whose statement had been recorded through Video-conferencing as PW-20. Victim Navneet Singh Chatha himself had not stated about the detail of mobile number, which he was using on 10.04.2012. Even though the said witness had stated about himself to be having cell phone No.6478540047, while in Canada, but however, he further stated that he does not remember the mobile number, which he was

he stated that he does not remember whether he was having mobile No.9914492473 of Idea company, which he was using on 09.04.2012. He also stated that he does not know if the said mobile number belongs to Tarun Singla s/o Rajinder Kumar Singla, r/o H.No.2930, Sector 37, Chandigarh. He also stated that he does not know any such Tarun Singla. He further categorically denied the suggestion given that he was using mobile No.9914492473 at that time in India.

Such being the evidence, coming on record, the phono-connectivity between victim Navneet Singh Chatha and his servant Amit Kumar qua ransom amount, as such is not established, as linkage between two mobile numbers bearing Nos.9988007773 and 9914492473, as reflected in the call detail about the calls made at the relevant time, does not stand connected to the victim and therefore, it gives a amiss in the version of the prosecution.

In the light of such amiss qua connectivity of ransom amount, the other important aspect is of the call made by Gurneet Singh Chatha, brother of victim, to the police. Qua the same, there is testimony of PW-15 Head Constable Piara Singh, who was additional Duty Officer over the call taker of Police Control Room, at the relevant time. He deposed about having received a call from some NRI from number 0014165652949 and that caller has given him the information that his brother had been kidnapped, who was residing at H.No.1323, Sector-18D, Chandigarh. He has also deposed about having made entry in misc. crime register regarding the said information and on the register, brought by Head Constable Sunder Lal, Record Keeper, he had seen the entry so made at Sr. No.13998 and the same is **Ex.P38**.

number 0014165652949 but the name of informant has not been mentioned and the information given is relating to kidnapping of his brother by unknown person and the address of said house also been mentioned. Nothing, as such is coming on record about the phone number 0014165652949 to be belonging to Gurneet Singh Chatha. Even though, Amit Kumar PW-3 stated to have received a phone call on his mobile number on the intervening night of 09/10.04.2012, thereby apprising him about kidnapping of Navneet Singh Chatha and to make statement to the police but however, the call detail of number of Amit Kumar does not reflect call received from number 0014165652949.

Furthermore, even it is the claim of prosecution that at the spot of confinement of the victim, he was asked to call his brother, to demand ₹1 crore. It is also claim of the prosecution that there were three calls so exchanged between the victim and his brother. There is absolutely no evidence about the mobile numbers from which the calls were made or received. Even though, it is claimed by learned State counsel that the victim was made to raise the demand from the mobile phone of the accused but then also, connectivity could be established, as the mobile phones have been recovered from the possession of all the accused, who were apprehended at the place of raid, but there is amiss qua the same.

In the light of the same, phono-connectivity as asserted, does not stand established. Consequently, the demand of ransom amount, as such does not stand proved and that being so, necessary ingredient vis-a-vis offence under Section 364-A IPC does not stand established. But anyhow, in view of the clear and specific testimony of victim, his abduction as such

by the accused, stands amply established, even though, it is submitted that

the victim had property dealing interaction with Anil Kumar and he had voluntarily gone and Anil joined his company in the car, though Ajit followed him in a separate car, but he also deposed that thereafter, at some shop, they had stopped the vehicle and both Anil and Ajit went outside and had a conversation with other persons. Later on, two boys, namely Pardeep and Nitin sat on the rear seat of his car. Victim also deposed about Pardeep having a gun and aimed at him and further, they had asked the victim to follow instructions, otherwise, they will shoot him and they had forcibly taken him to the tubewell motor, where other accused were already present. He was confined in the room of the farmhouse. He had specifically named all the accused. In the light of the same, abduction of the victim stands amply established. Even the complainant had stated in his statement about having overheard the conversation of all the accused in respect of having a plan to kill him after injecting certain medicine. From the spot, after apprehension of the accused, injections and syringes were also recovered. Even, when the victim was rescued, he was having fresh injuries and he had also deposed that he was given injuries with Axe like weapon. Even, PW-14 Dr.Madhur Verma has been examined, who has proved the MLR Ex.P37, which reveals about presence of nine injuries on the person of Navneet Singh Chatha. In the light of the same, abduction by the accused of victim Navneet Singh Chatha after having been put in danger of being murdered, stands established. Thus, offence under Section 364 IPC is established.

Besides the same, from the testimonies of complainant, victim as well as various police officials, it stands amply established that accused had committed robbery of cash amount, which the victim was carrying in his car and even various articles of the victim, were recovered from their

possession. Even Swift car was bearing false number plate and it was established to be stolen property, by way of examination of PW-2 Anil Kumar Gupta, as well as official witnesses, who proved the registration recitals of the said Swift car and the number which was being displayed, is established to be that of some Eicher Tractor. The said car, at the relevant time, was being used by Nitin, one of the accused. Thus, other offences, for which the accused have been convicted, also stand established.

In the light of the aforesaid discussion, the appeals of all the appellants namely Sukhdev, Sanjeev Kumar, Ajit Singh, Nitin, Anil Kumar, and Pardeep Malik, are partly accepted and the offence under Section 364-A IPC is altered to that under Section 364 IPC. All the appellants qua Section 364 IPC are sentenced to undergo rigorous imprisonment for a period of ten years each along with fine of ₹5000/- each, in default whereof, they shall undergo rigorous imprisonment for a period of 30 days. The conviction and sentences so imposed under other Sections are upheld.

Resultantly, all the appeals stands partly allowed with the above-said modification.

(JITENDRA CHAUHAN)
JUDGE

(ARCHANA PURI)
JUDGE

June 04, 2020
Vgulati

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No