

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.A. 380 of 2013

Fitu @ Jahangir Alam

-Vs-

The State of West Bengal

With

CRA 382 of 2013

Samim Biswas @ Saminur Rahaman & Anr.

-Vs-

The State of West Bengal

For the Appellants : Mr. Milon Mukherjee,
Mr. Dattatreya Dutta

For the State : Ms. Sreyashee Biswas

Heard on : 27.09.2023, 04.03.2024, 02.04.2024, 16.07.2024

Judgment on : 13.05.2025

Ananya Bandyopadhyay, J.:-

1. This instant criminal appeal is preferred by the appellants against the judgment dated 24.04.2013 passed by the Learned Additional District and Sessions Judge, Fast Track, First Court, Malda, convicting the appellants under Sections 363/368/34 of the Indian Penal Code and sentencing them to suffer rigorous imprisonment for seven (07) years and to pay a fine of Rs.10,000/- each, in default, to suffer further rigorous imprisonment for six

(06) months in Sessions Trial No.39(11)/2012 arising out of Sessions Case No.31/2006.

2. The prosecution precisely stated that the de facto complainant namely Rabindranath Sharma, a bank employee of U.B.I., lodged a written complaint at Englishbazar Police Station mentioning, inter alia, that on 12.12.2003 at about 9:30 hrs., his minor daughter (the victim girl), aged about six years, was kidnapped from his lawful guardianship on the way to her school Kachimon Sishu Angan on a rickshaw van being paddled by Shyama Pahari near Kotwali bridge under Kotwali Gram Panchayat. Suddenly two miscreants, on motor cycle kidnapped his daughter from that place. Subsequently a telephone call was received by his wife whereby unknown persons speaking Hindi language stated her daughter was in their custody. Second call was a threatening with dire consequences, if the matter was communicated to police. Thereafter, a third call which got disconnected on hearing the voice of the de facto complainant.
3. On the basis of the aforesaid complaint, Englishbazar Police Station started a case being No.457/2003 dated 12.12.2003 under Sections 363/368/369 of the Indian Penal Code against the appellants.
4. Police on completion of investigation submitted Charge-sheet under Sections 363/368/369/364A/109/120B/34 of the Indian Penal Code against the appellants.
5. Charges were framed under Sections 363/364A/368/34 of the Indian Penal Code against the appellants and others to which they pleaded not guilty and claimed to be tried.

6. In course of trial, prosecution examined 37 witnesses and exhibited certain documents.
7. The Learned Advocate for the appellants urged that according to P.W. 37, the Investigating Officer, the testimonies of P.W.s 16, 32, 33, and 34 were inconsistent, as they did not initially state that the minor girl had been recovered from the house of Urmi Saha, the sister of appellant Fagu Saha. Neither did they mention that Fagu Saha had tried to flee from the house of Urmi Saha nor that he had attempted to hide from the police.
8. The Learned Advocate for the appellants argued that the Investigating Officer, P.W. 37, had noted that the victim girl had not mentioned several key facts at the time of her deposition, which cast doubts on the prosecution's narrative. She did not initially state that the vehicle used in the abduction had been red, nor did she mention falling asleep during the journey. The girl also failed to disclose that she had been shifted between multiple houses or that she had been moved across a river. Further, she did not inform the Investigating Officer that the miscreants had threatened her with injections or that Fagu Saha, her uncle, had injected her. The victim had also not stated that two men on a motorcycle had warned her that the police were coming and that she had to be moved. These omissions, the Learned Advocate for the appellants argued, suggested that the victim's story might have been fabricated at a later stage.
9. The Learned Advocate for the appellants stated that P.W. 37 further testified that P.W. 20, Monoranjan Mondal, had not initially told the police that Indrajit (P.W. 22) and Prasanta (P.W. 15) had provided a phone number to

the officer-in-charge of Udua O.P., which had subsequently led to the involvement of Malda police in the investigation. The police had not seized the necessary evidence or followed the correct procedure at the time of the recovery of the minor girl and the arrest of appellant Fagu Saha. The statement made by P.W. 20 in court about the involvement of these individuals, the Learned Advocate for the appellants argued, was a new development, contradicting the earlier statements made to the police.

10. The Learned Advocate for the appellants urged that P.W. 11, Rabindranath Sharma, the victim's father, had testified that his daughter had not mentioned the name "Samim" as the pillion rider involved in the kidnapping. This was significant, the Learned Advocate for the appellants contended, as the prosecution had relied on this name as one of the perpetrators. Further, the Learned Advocate for the appellants pointed out that P.W. 37 had mentioned that P.W. 9, Kamrujjaman, had testified to the seizure of a red motorcycle and had implicated Samim, but Kamrujjaman later denied his involvement in the matter. He clarified that he had merely signed a paper on the police's request without being aware of the contents.

11. The Learned Advocate for the appellants argued that the Investigating Officer, P.W. 37, had also deposed that P.W. 10, Sajiruddin Ali, had initially claimed that appellant Fagu Saha had been seen with the minor girl, traveling on a red motorcycle, and had stayed with the girl at Naresh Saha's house. However, the Learned Advocate for the appellants contended that Sajiruddin Ali had later denied making such a statement and had also

discredited the seizure of the motorcycle and other articles, further raising doubts about the reliability of the investigation.

12. The Learned Advocate for the appellants urged that in addition, the testimony of P.W. 14, Israul Ahmed, who had allegedly witnessed the police seize a red motorcycle from the house of Mantu Maulana in connection with the kidnapping, was inconsistent with earlier statements. He denied the occurrence of the event, the Learned Advocate for the appellants stated, and also denied his signature on the seizure list. Similarly, the Learned Advocate for the appellants argued that P.W. 19, Md. Akimuddin, had contradicted the police version of the recovery of a motorcycle, stating that he had signed the seizure list without knowing the details and had not been present at the recovery.
13. The Learned Advocate for the appellants stated that P.W. 23, Rokbul Sk., had testified that the police had recovered a red helmet from the house of Naresh Saha, but he later denied this fact. He also discredited the statement made by appellant Fagu Saha regarding the use of the helmet during the abduction. Moreover, the Learned Advocate for the appellants pointed out that P.W. 9, Kamrujjaman, had denied any knowledge of the seizure of the red motorcycle and the involvement of Samim in the kidnapping.
14. The Learned Advocate for the appellants argued that the Investigating Officer, P.W. 37, had also noted that P.W.s 5 and 6 had stated that a young boy of 24/25 years with a defective hand had visited the shop, but these facts were not recorded in their statements, showing a lack of consistency in the witness testimonies. Furthermore, the Learned Advocate for the

appellants pointed out that P.W. 8, Ganesh Basak, had allegedly seen individuals involved in the incident, but he had completely denied this assertion when deposed in court.

15. The Learned Advocate for the appellants urged that the Investigating Officer had noted that P.W. 12, Md. Giabinal Haque, had stated that a school bag belonging to the victim was recovered from Usha Saha, but P.W. 12 had later denied witnessing the recovery, stating that the bag was found by children on the playground and not by him.
16. The Learned Advocate for the appellants argued that P.W. 25, Nidhir Ghose, who had allegedly been a witness to the seizure of the red motorcycle, had in cross-examination admitted that the motorcycle had been brought to the police station prior to its recorded recovery. This, the Learned Advocate for the appellants contended, further undermined the credibility of the prosecution's case. Additionally, the Learned Advocate for the appellants argued that the investigation had not conducted a Test Identification Parade (TIP) for either the appellants or the seized items, including the motorcycles and the helmet, which was crucial to verify the claims made by the witnesses and the victim.
17. The Learned Advocate for the appellants stated that the victim girl, P.W. 35, had only identified appellant Fitu after a period of six years, which raised doubts about the accuracy of her identification. Her testimony also indicated that she had never truly seen the appellant before, which further weakened the prosecution's case, as the victim's identification was vital for the case. Neither the victim's parents, P.W. 30 (mother) nor P.W. 11 (father), had

testified to any ransom demand being made during the kidnapping, the Learned Advocate for the appellants argued, which was a critical element for establishing the motive behind the abduction.

18. The Learned Advocate for the appellants urged that in the absence of a ransom demand or any other clear motive, the prosecution's case, which was based solely on circumstantial evidence, was significantly weakened. The appellants, the Learned Advocate for the appellants argued, had not been properly examined under Section 313 of the Code of Criminal Procedure, as all the circumstances of the case were not put to them.
19. The Learned Advocate for the appellants argued that the prosecution had failed to establish the case beyond a reasonable doubt, as the seizure list witnesses had not corroborated the statements made by the Investigating Officer, and the recovery of the motorcycles and helmet had not been made in the presence of valid witnesses. Moreover, the Learned Advocate for the appellants pointed out that the school bag of the victim girl had not been seized in the presence of legitimate witnesses, as most of the seizure witnesses had denied being present during the recovery of the items.
20. Finally, the Learned Advocate for the appellants argued that the investigation had not revealed the identity of the two individuals who had allegedly intercepted the minor girl on her way to school, which was a critical point of the case. Given the numerous contradictions and failures in the investigation, the Learned Advocate for the appellants stated, the prosecution had failed to prove the charges against the appellants.

21. The Learned Advocate for the State submitted that the prosecution was able to prove its case based on corroborative evidence of the prosecution witnesses supported by the medical evidence and the appeal shall be dismissed.

22. A circumspection of evidence of the prosecution witnesses revealed as follows:-

- i. PW-1, the Medical Officer attached to Deputy CMOH-I, Dakshin Dinajpur deposed to have answered three enquires from the Officer-in-charge of English Babaz P.S in connection with the instant criminal case asking whether the victim was compelled to consume drugs or any drug was injected into her or the presence of mark or injuries detected on the victim. PW-1 answered all the questions in negative and replies to the aforesaid questions were marked through Exhibit 1 bearing his signature.
- ii. PW-2 had been Secretary of Kochimon Sisu Angan School at Kotwali while his wife had been the Head Mistress of the said school which imparted education till Class-IV. The school facilitated attendance of student through school vans of which Shyama Pahari, one of the accused was the van puller. He further deposed to have learnt that the youngest daughter of Rabindranath Samanta accompanied by other students were coming to school by the van driven by Shayma Pahari about 4 years ago. On the way one person told the victim that her mother was ill and took her away from the said van. The school rickshaw van was subsequently

seized under a seizure-list marked as Exhibit 2. PW-2 further submitted identity cards being issued to the students by the school and the victim had been student of the aforesaid school with her elder sister being a student of Class-III.

- iii. PW-3, the wife of PW-1 who had been the Head Mistress of the school of the victim confirmed the elder daughter of the de facto complainant and the youngest daughter to be student of Class-IV and Class-I respectively in their school in the year 2003. PW-2 further deposed to have received a phone call from the mother of the victim on 12.12.2003 asking as to whether her daughters attended the school. PW-3 on enquiry learnt the presence of the elder daughter at their school whereas the younger daughter did not reach the school which was conveyed to the mother of the victim who agonized of sending both her daughters to school by the rickshaw van of accused Shyama Pahari. PW-3 was informed by the elder sister of the victim that on their way to school from the house a van appeared at Kotwali bridge and two unknown persons told the victim and her elder sister (PW-31) about the illness of about their maternal uncle and PW – 35 to accompany them to which she refused and the younger sister being the victim left with those unknown persons. The accused van driver Shyama Pahari did not report this incident to PW-3 who was subsequently interrogated by the police. She identified the van puller, reporting of the incident of

missing of the victim and the seizure of the van rickshaw through the seizure list marked Exhibit 2/1.

- iv. PW-4 recounted about 4 years ago the appellant Fagu Saha @ Sunil Saha came to their house on a Saturday evening along with a minor girl disclosing her to be the daughter of his elder brother and left their house after a day's stay on the following Monday at about 10 a.m. Subsequently, he learnt from the police that the victim girl was kidnapped by the appellant, Fagu Saha. His statement was recorded under Section 164 of the Criminal Procedure Code which was marked Exhibit 3 collectively.
- v. PW-5, PW-6, PW-8, PW-9, PW-10, PW-14, PW-19, PW-23, PW-28 were declared hostile by the prosecution.
- vi. PW-11 deposed in his evidence that during December 2003 he used to reside at Borkolunder P.S.-Rotuia which was his native place along with his wife Shrimoti Mili Sharma and their two daughters namely Madhurima Sharma @ Mou aged about 9+ and the victim girl aged about 6. PW-11 was then posted as officer at Regional Office, United Bank of India at Sukanta More, English Bazar, Malda. At that time, his eldest daughter Mou was student of class four and his youngest daughter Priya was a student of class one. They were students of Kachimohan Shishu Angan at Kotwali English Bazar, Malda. They used to go to school by the rickshaw van of Shyama Pahari. The incident took place on 12.12.2003. PW-11 used to come to his office from his said native house everyday as daily passenger

and he used to go out of his house at 8-8:30 a.m. and reach his office around 9:30 a.m. At the office he received a phone call from his wife on that day at about 1:45 p.m. who told him that at about 1:30 p.m. one girl named Moushami Ghosh resident of the house situated in front of their house having a Manasha Temple in that house, came to his wife and told that she had a phone call from Bihar and then his wife asked her to ask them to make phone call in the own telephone of his wife at their house as she had been busy with work. The land telephone number of his house was 228269. After some time about 1:30 p.m. there was a phone call at their house in their land phone and his wife received the same and heard one unknown male voice speaking in Hindi stating that their daughter was in their clutches and that person also threatened not to disclose the matter before police and they disconnected the phone call. After that phone call, his wife tried to make contact at the school of their children and learnt from the school that his eldest daughter attended the school but the youngest did not. After getting such information his wife informed him over phone. After getting such information, PW-11 informed the matter to my colleagues. Thereafter he went to the school along with some of his colleagues. After reaching the school, he found his elder daughter there in the school but his youngest daughter was absent. He asked his elder daughter as regards whereabouts of his youngest daughter. His eldest daughter stated that his youngest daughter was taken on a

red colour motor cycle at Kotwali bridge by two unknown persons on the ground that their maternal uncle was ill and their mother sent those persons for taking her. His eldest daughter also stated that at the time taking the said two unknown persons also asked her to go with them but she refused it on the ground that she had examination at her school. On that day, also PW-11's said two girls were going to school by the rickshaw van of Shyama Pahari and Shyama Pahari was driving the said rickshaw van. When PW-11 met his eldest daughter at the school Shyama Pahari was present at the school compound. PW-11 also asked Shyama Pahari about his youngest daughter. Shyama Pahari also stated same thing like his eldest daughter. PW-11 asked him as to why he allowed his youngest daughter to go with those unknown persons and Shyama Pahari replied that as she wanted to go so he could not resist her. Shyama Pahari on being further asked told him that she did not inform the matter to either the school authority or the other van pullers. Shyama Pahari. Thereafter he returned home from the school straightway. After going back to his house, he came to know from his wife that at about 2 p.m. she received phone call talking by some persons in same male voice and the said male person threatened over phone not to disclose the matter to police. Again at 2:45 p.m. there was another phone call which he personally received. Hearing his voice the person calling over phone from other side held on the phone for a while and thereafter disconnected the

same. Thereafter he returned to his office again and narrated the incident to his colleagues. PW-11 specially narrated the incident to his colleague Biswajit Ghosh. He was not with free mental condition and as such Biswajit drafted a complaint on his behalf. Thereafter, PW-11 went through the said complaint and signed the same as it was correctly recorded. Thereafter he submitted the written complaint before English Bazar P.S. PW-11 identified the said complaint written by his colleague Biswajit Ghosh in his presence. The signature of PW-11 on the complaint was marked as Exbt.-7. The English Bazar police went to the said school of his daughter along with his child. Thereafter police came to his house along with his child. They also tried to search out their daughter through various persons. On 16.12.2003 his relative Prashanta Mondal of Uttar Lakshipur, P.S.- Kaliachak, informed PW-11 over phone that his daughter was found out at Kathalbari, P.S.- Radhanagar, Dist.- Sahebgunj, Jharkhand and she was confined by the villagers at that village. Before receiving the phone call, PW-11 already received two phone calls. Among the said two phone calls in the first phone call PW-11 was asked to pay ten lakhs for his daughter to be released. In the second phone call he was threatened that the accused persons already arrested by police had to be released otherwise PW-11 would be killed. At about 1:45 p.m. PW-11 informed the entire matter to English Bazar police. On that night, PW-11 came to know that his daughter had been recovered and brought at English Bazar P.S.

After receipt of that information PW-11 along with his wife went to English Bazar P.S. at about 9-9:30 p.m. and found his said daughter. Both of them identified her as their said daughter. On that night, they returned home on the next day his daughter was released in his custody through Court. PW-11 took back his daughter to his house. At their house, PW-11 asked his daughter as to how and where she was taken. His said daughter narrated the incident that she was taken by two persons on a red colour motor cycle and she was made to sit in-between the said two persons on a said motor cycle. She also stated that her mouth was blocked by hand and subsequently she became unconscious and when she regained her sense she found that she was at one unknown place surrounded by unknown faces and some time she lost her sense and she was shifted from one place to another place by them. When she was recovered by police she found that she was at an unknown place. On being asked she further stated that when she was taken on the motor cycle at that time the pillion rider called the driver of the motor cycle.

- vii. PW-12, an independent witness recounted to have identified a school bag from a playground which was recovered by the children playing therein wherefrom a photograph in the identity card along with school books and a school diary resembled a photograph published in a newspaper. He was thereafter declared hostile by the prosecution.

- viii. PW-13 a neighbour of the de facto complainant deposed on 12.12.2013 at about 1.30 p.m., she received a phone call of a male voice asking her to call the wife of the de facto complainant who refused to disclose his identity. PW-13 was at her father's house and immediately rushed to inform the wife of the de facto complainant about the phone call from unknown persons speaking Hindi language who stated to have call further after 5 minutes. The wife of the de facto complainant being occupied with her domestic work asking PW-13 to inform the person to call her husband. In the evening PW-13 learnt that the youngest daughter of the de facto complainant was kidnapped.
- ix. PW-15 deposed to have learnt that the victim was kidnapped from the news in the television and newspaper on the pretext that the mother was ill. He was requested by the police and the villagers to search the victim and consequently PW-15 along with his cousin went on in the mission. The villagers were requested to help who further informed the police station might be 'Uduia' within the post of Radhanagar P.S. At the arrival of the police, persons standing nearby fled and thereafter entered into a proximate house and was apprehended by the police and PW-15 recovered the victim girl and informed her father about such recovery.
- x. PW-16 had been a seizure-list witness in connection with seizure of wearing apparels including a sweater of the victim girl who identified his signature marked as Exhibit 8 and also the wearing

apparels as Mat. Exhibit I collectively. PW-16 reiterated to have heard the incident of kidnap and recovery of the victim.

- xi. PW-17 similar to PW-16 had been the seizure list witness in connection of seizure of wearing apparels of the victim girl.
- xii. PW-18 affirmed that the appellant had taken a female child to their house for a day leaving the same along with the minor girl on Monday at about 9-10 a.m. disclosing the victim to be his elder brother's child. On arrival of the appellants to their house after 2-3 days he was confirmed that the child was kidnapped. He identified his signature on the statement recorded under Section 164 of the Code of Criminal Procedure as Exhibit 9 and 9/1.
- xiii. PW-20 deposed that he was a resident of village Radhanagar under P.S. Radhanagar within the District of Sahebgunj, Jharkhand. On 16.12.2003 he himself, Rajkumar, Naba Mondal and Sonatan Ghosh were coming to Rajmahal riding motor cycles. When they reached at Kathalbari village, then Indrajit of Chamagram and Prashant of Debipur of Malda district informed them that one minor girl had been kidnapped from Malda district and one Fagu Saha kidnapped the said girl and Fagu's sister's house was at Kathalbari. Thereafter, they went to Udua O.P. under Radhanagar P.S. They got the information at about 11:30 a.m. The said two informants also accompanied them. Indrajit and Prashanta supplied the phone number to the O.C., Udua O.P. The said officer communicated over phone with Malda police. In the afternoon, Malda district police

arrived at Udua O.P. Then, they all came to Kathalbari. Thereafter, Malda district police of Udua O.P. and Radhanagar P.S. police along with the villagers went to the house of the sister of Fagu Saha at Kathalbari. Therefrom, they recovered a minor girl and apprehended Fagu Saha. Police seized some medicines from the possession of Fagu Saha. He put his signature on the seizure list which was marked as Exbt.-11. Thereafter, police brought Fagu Saha and the minor girl to Malda. Fagu Saha confessed before villagers in his presence that for extorting huge ransomed, he kidnapped the minor girl.

- xiv. PW-20 in his cross-examination stated that police arrested the accused Fagu Saha in between 03:00 to 04:00 p.m. approximately. Jharkhand police and Malda police jointly apprehended the accused at the house of Fagu's sister at Kathalbari. Thereafter, he was interrogated and he disclosed that for getting ransom, he did it. Except, the fact which he had stated about the recovery of the girl and arrest of Fagu Saha and statement by the accused, he had no other knowledge in connection with that incident."
- xv. PW-21 confirmed the appellant to have purchased one injection ampoule and one disposable syringe and some pieces of tablets by showing prescription of his shop. His statement was recorded under Section 164 of the Criminal Procedure Code and his signature thereon was marked as Exhibit 12 and Exhibit 12/1.

- xvi. PW-22 recounted PW-15 Prashanta Mondal to be his cousin brother who came to their house on 16.12.2003 disclosing that the daughter of friend of his brother-in-law had been kidnapped as visibly published on the television. PW-15 also told him to have received information that kidnappers had taken shelter at Kathalbari in Jharkhand and requested PW-22 to accompany PW-15. At first, they went to PW-22's maternal uncle's house at Radhanagar thereafter PW-15, PW-22 and his maternal uncle went to Kathalbari and reached the house of a relative namely Monoranjan Mondal. They further received information that the appellant and the victim girl were staying at the house of the sister of the appellant and the same was informed to the Radhanagar Police Station. Subsequently, police arrested the appellant and recovered the victim girl in his presence.
- xvii. During his cross-examination PW-22 stated to have seen victim girl playing on the pathway. Police has entered the aforesaid house while PW-15 caught hold of the victim girl while she was playing.
- xviii. PW-25 had been the seizure-list witness in connection with the seizure of motorcycle bearing no. WB/66A 9386 and the school uniform of the victim girl as shown by the appellant from his house at Sahanagar. The signature of PW-25 on the seizure-list was marked as Exhibit 10/1. He identified the school uniform produced before the Court was marked as Exhibit 2.

- xix. PW-27, a student of Class-X of Kochimon Sisu Angan Primary School stated on the date of incident in the year 2003 he was a student of Class – IV who was accompanying the victim and her elder sister in the rickshaw van driven by the accused Shyama Pahari to their school. PW-27 further stated that on the bridge over Kotwali Kalindi River two persons appeared riding a motorcycle and informed the elder sister of the victim of somebody being ill and asked to accompany them. The elder sister of the victim refused to go with them while the victim girl went with them. Those two persons who came from the side of Borkol village took the victim on their motorcycle and proceeded towards a village.
- xx. PW-29 could not recollect anything about the incident except to possess a land phone connection bearing no. 261707.
- xxi. PW-30 the mother of the victim deposed in her evidence that PW-11 was her husband. Modhurima @ Mou and the victim were her daughters. At the time of the incident, his said two daughters were students of Kochimohan Shishu Angan school at Kotwali within English Bazar P.S. They used to attend school by the rickshaw van of that school. The school van was run by Shyama Pahari. At the time of the incident, they used to reside at village Borkol under P.S.- Rotua. At the relevant period, her husband being PW-11 was an employee of United Bank of India and he was posted at Regional Office, Sukanta More, Malda. He was a daily passenger at that time and he used to come from office every day. The incident took place

on 12.12.2003. On the date of the incident, her husband started for his office at about 8:30 a.m. in as usual course. The school rickshaw van like other days reached their house at 9 a.m. PW-30 made ready her two daughters for school and they boarded the van rickshaw driven by Shyama Pahari. PW-30 remained in her house. There was a Manasa Temple on the opposite side of their house. The temple was within the house of Murali Dhar Ghosh. Mousumi Ghosh a female member of that house came to her and stated that there was a phone call calling himself from Bihar. It was at about 1-1:30 p.m. The telephone was in the house of that lady. PW-30 told her that she could not attend the phone call and asked her to communicate that the phone call might be made through her phone being phone number 228269. Mousumi returned to her house then PW-30 received a phone call hearing a male voice ("*App kelarki mere kobje me hai, kisikobatanamaat*") her daughter/the victim girl was in their custody and PW-30 should not disclose the matter to anybody. Thereafter the said person disconnected the phone call. PW-30 then made a phone call to Kochimahan Shishu School through the telephone bearing number 254351. The phone call was not received by the school. PW-30 tried to connect Mondira Mistress of that school over phone but could not connect. Then PW-30 again made a phone call to the said school. The Head Mistress of that school informed her that her eldest daughter reached the school but her youngest daughter did not go to school. Then she made

phone call to the Regional Office at U.B.I. the office of her husband through their phone number being 266195 and she narrated the incident to her husband. Then her husband had been to the school and took the detail information and came back to their house at about 2:45 p.m. After phone call to her husband by her and before returned to her husband to their house she received one phone call in Hindi and she was threatened and she was communicated over phone that her daughter was in good condition. She was also directed by that phone call not to inform the police. Her husband came back to house from the school along with her eldest daughter. PW-30 came back to know from her husband that on the Kotwali bridge two unknown persons came by a red motor cycle and on the pretext of illness of the maternal uncle of her daughters they had taken away her youngest daughter. At about 2:45 p.m. her husband after returning house received another phone call but it was disconnected without talking anything. Thereafter her husband lodged a written complaint at English Bazar P.S. regarding the kidnapping of her daughter. Thereafter they continued searching of their daughter. On 16.12.2003 they got the information from police that their daughter was recovered. They got the said information in the afternoon. Then she herself and her husband came to English Bazar P.S. at about 9-9:30 p.m.

xxii. PW-31 the elder sister of the victim girl deposed that they were the students of Kochimohan Shishu Angan Primary School. At the

relevant period, she was a student of class four and her sister/victim girl was the student of class one. At the relevant period, they used to reside at village Borkol. They used to reside with her parents in the house at Borkol. Their school was situated at Kotwali. They used to go to school by their school rickshaw van. It was driven by Shyama Pahari. The incident took place on 12.12.2003 at about 9:30 to 9:45 a.m. She along with her sister/victim girl were going to school by their school rickshaw van driven by *Shyama Kakuon* the date of the incident. When they reached near the Kotwali bridge, she herself and one boy named Mobari being senior in age got down from the rickshaw van and pushed the rickshaw van to reach the bridge as the bridge was on higher level on the road. When their rickshaw van reached of the middle of the bridge at that time two persons came on a red coloured motor cycle and they called her as "Mou" and told her that her maternal uncle was ill and as such her mother called them to come back. PW-31 refused to do so as their examination was fixed on that day. Then they took her sister/the victim girl and they drove away the motorcycle towards the same direction from which they came. Her sister was taken on the motorcycle and she was seated in-between the two persons on the motorcycle. PW-31 went to school by that rickshaw van. After a while, her father came to the school and she asked her father about her sister and father replied that the said two persons kidnapped her sister. PW-31 came back home

along with his father from the school. PW-31 had seen those two accused persons prior to the incident. They used to roam the Borkol bus stand and used to seat at the tea stall near their house.

xxiii. PW-32 stated to have gone to Udua along with Sanatan Ghosh, Indrajit Mondal and Prashanta Mondal in search of the victim on the basis of the photograph of the said minor girl. He reiterated the evidence of PW-15 and PW-22 in connection with the recovery of the victim. He further submitted that the appellant stated the reasons to have kidnapped the victim for extorting huge ransom from the father of the victim.

xxiv. PW-33 reiterated the evidence of PW-32 to being a part of the search team in the mission of recovery of the victim along with PW-34 who stated the victim to have recovered from the house of Urmila Saha at Kathalbari. The appellant fled from the said house into another house and took shelter under the staircase of that house which was surrounded by 400-500 local people wherefrom the appellant was apprehended. The police seized an ampoule of injection, syringe of injection and sleeping tablets through a seizure-list bearing his signature marked as Exhibit 11/1.

xxv. PW-35 being the victim girl deposed they were the students of Kochiman Shishu Angan during their primary education. At that period they including their parents used to reside at village Borkol. They used to go to school by their school rickshaw van. The said van was used to be driven by Shyama Pahari. Incident took place about

six years back. On the date of incident school van of their school at about 9-9:15 a.m. came to their house to pick up her and her elder sister. After getting ready, they boarded the van which proceeded towards their school. Accused Shyama Pahari was driving the van on that day. The van picked up all the students and came near Kotwali bridge at that time the senior girls got down from the van to push the van upwards towards the bridge. When the van came on the middle of the bridge at that time two persons came by a red coloured motorcycle and told her elder sister that their maternal uncle became ill and their mother called her elder sister. Her elder sister replied that due to examination in the school she would not go back to their mother. Her elder sister also told them to take her. Thereafter the said two persons made her sit on the motorcycle in-between the driver and the other person and proceeded towards their house. PW-35 felt uneasy and drowsiness at that time and ultimately she fell asleep on the motorcycle. When she woke up she found herself in a complete unknown house and in that house there was an aunt who changed her school dress and one pant and one top of black coloured was put on. She was kept in that house for one night. On the next morning she was taken to other nearby house. She was kept there for one day and thereafter she was taken to a place crossing in a big river and she was taken to another house. On the next day in the afternoon, police came to that house and brought her as well as the uncle who took her to that house. They

were brought to the Court and from court she went back to their house. After reaching house, she narrated the entire incident to her parents. Whenever she earnestly requested them to take her to her house they used to push injection and she fell asleep. The uncles took her to the said house and crossed the said river that uncle used to push the injection. She narrated the entire incident before Magistrate of Court and the Magistrate recorded her statement. Thereafter, she put her signatures on the said statement which were marked Exbts.-14, 14A and 14B. PW-35 went to the dock and identified Sunil Saha @Fagu Saha and Swamim Biswas @Swamim Rahaman as the two persons who carried her by motor cycle from the bridge. The deponent also identified Fagu Saha as the person who took her to several houses and lastly to a house crossing the big river and used to push injection. PW-35 further deposed when she was kept in the first house at that time two persons came there by motor cycle during her stay at that house and one of them told the accused who took her to that house that police had already been informed. He also told the said accused to shift her to another house and she had all heard it when the person was speaking. Those two persons came in that house in the morning. The deponent went to the dock and identified accused Jahangir @Fitu as the person who told that police had been informed already and she had to be shifted. PW-35 identified her school dress consisting of one cream white shirt and one skirt which were marked as Mat Exbt.-II. PW-35

further identified the said black top and black pant which was given to her to put on by aunt was marked as Mat Exbt.-I. PW-35 identified Mat Exbt.-3 and the said school bag, books and exercise books along with school identity card which belonged to her. The said four items were collectively marked as Mat. Exbt.-III. Those school bag, books, exercise books and identity card were with her on the date of incident while she was going to school. When she was taken on the motorcycle from the school van, the said articles namely school bag, books, exercise books and identity card were taken by her.

- xxvi. During further cross-examination, PW-35 deposed she did not know her date of birth. About 12/13 girls/boys were in the school van. Out of four, she could say the names of about 4/5 girls/boys. Those were Kishore Lal, Mobari, Tufan and Billu. She herself and her elder sister boarded the van first on that day to go to school. Besides those four students, there were other boys and girls in the school van whose names she could not stay during her cross-examination. On each day they used to go to school along with those boys and girls by that school van. Since she was a student of nursery up to the date of incident, the same boys and girls used to go to school with them by that van. About 7 to 8 boys and girls in that van were her classmates. There were also other boys and girls who were her seniors as well as her junior also. Kumari Billu and Tufan were students of class two and the other two named Kishore Lal and

Mobari were her classmates. PW-35 had stated everything before Magistrate as well as police regarding the incident was happened nothing was happened beyond that which she had stated. She knew the difference in between scooter and motorcycle. She could not remember if she stated before Magistrate that she was taken away by a scooter. She could not remember whether she mentioned before Magistrate that only one person came to her and told her that her maternal uncle was ill and that she got down from the van and boarded the scooter of that uncle (Kaku). At the time of deposition, PW-35 stated she had been a student of class seven. At the relevant period, she was a student of class one. She was a student of Malda Girls' High School. She had come to the Court for four times including the day to depose. She did not come to Court on that day when her mother was examined on dock. She did not come to Court on the date of examination of her elder sister on dock. She did not go to school of those days when her parents and her elder sister went to Court. She remained at home on those days when her parents and her elder sister went to Court in connection with this case. Her elder sister was a student of class ten at Barlow Girls' High School at Malda. They reside at Malda Town. She saw her parents at the P.S also when she talked with them. She could not remember whether she stated before her mother at the P.S. or after that regarding the identification of the persons whom she had seen in front of their house on earlier occasions. She could not state

whether those accused persons whom she identified were Hindus or Mohammedan by religion. She could not say whether the inmates of those houses where she was kept were Hindus or Muslims. She could not say as to how many accused persons she identified during her confinement at three houses. After about one minute since riding a motorcycle, she fell asleep. She could not say as to how many days she woke up from sleep. Injection was pushed for many times. PW-35 could not remember whether she was in sleeping condition for most of the time due to such injection. There were female members also in those houses where she was taken. In the first house there was only one female person. No other male persons were there except the person who took her there. She could not remember any number of male persons or female persons in the second house. PW-35 deposed to Court that after the second house before crossing the big river, she was taken to another house and in total she was taken to four houses. In the last house there were two female persons and one male person who took her there. PW-35 did not find those persons who were in those houses and who took her there. She could not state the name and address of the persons who came to the first house with another persons and told the uncle to remove her from that house as police was informed. She could not remember whether she told Shyama Pahari that she was going with those uncles who came to take her due to illness of her maternal uncle and she told Shyama Pahari that she was going with them.

- xxvii. PW-36, the then S.I. of Police attached to Radhanagar Police Station as Officer-in-charge in the district of Sahebganj deposed that on 16.12.2003 at about 3.30 to 4 p.m. one person came to their police station and informed him of one minor girl to have been confined in a house at Kathalbari who was not a member of that family either been kidnapped or in some other manner. PW-36 along with force went to the village Kathalbar. Thereafter, Malda Police also arrived and they jointly raided the house at Kathalbari. Instantly, one person was seeing to escape and was intercepted by the police. The appellant was brought to the house and the minor victim of 5 to 6 years at the relevant time was found. The appellant was thereafter searched by the Malda Police and medicines like sleeping pills, one injection syringe, some telephone bills of STD booth were recovered and seized by the Malda Police. Thereafter, the Malda Police arrested the appellant and PW-36 signed the arrest memo stating his designation as Officer-in-charge, Radhanagar Police Station, District – Sahebganj and the signature on the seizure memo was marked as Exhibit 15. The Malda Police submitted requisition to take hold of the victim girl as well as the arrested person for transportation to Malda for production before the concerned Court at Malda which was signed by PW-36. The carbon copy of the requisition bearing his signature was marked as Exhibit 16.
- xxviii. PW-37 deposed in his examination-in-chief that he was Inspector of police then posted as I.C. Simlapal P.S. Dist.. Bankura. On 12.12.03

he was posted at E.B.P.S. as S.I of Police. At that time S.I. Bipul Majumdar was the office-in-charge of E.B.P.S. On 12.12.03 at about 4:45 p.m. He was in charge of the P.S. in absence of regular O.C. At that time he received a written complaint from one Rabindra Nath Sharma of Barkol P.S. Ratua. He registered E.B.P.S. Case No. 457/03 dt. 12.12.03 u/s 363/368/369 of I.P.C. He filled in the formal F.I.R. The formal F.I.R. prepared and signed by him marked Ext. 17. He made endorsement on the written complaint after starting the P.S. case which bore his seal and signature, marked Ext.7/1. He personally took up the investigation of that case.

xxix. During further examination-in-chief PW-37 deposed First he had been to the P.C. i.e. Kotowali Bridge. I prepared the sketch map with index of the said P.O. The said rough sketch map with index prepared and signed by me, marked Ext. 18. He had been to Barkol village, examined available witnesses and recorded their statements u/s 161 Cr..C. On 13.12.03 He had been to Kochi Mon Sishu Angan School, Kotowali and there he examined available witnesses and recorded their statements u/s 161 Cr.P.C. he seized the said school van by which the victim girl was being carried to the school. He seized the said school van from the school compound in presence of witnesses and prepared a seizure list. The said seizure list prepared by him marked Ext. 2/2.

xxx. During further examination –in-chief PW-37 stated that On 13.12.03 he had been to Barkol village and went to the house of de facto

complaint and examined his eldest daughter Mou @ Madhurima Sharma and recorded her statement u/s 161 Cr P.C. On 14.12.03 in course investigation he visited the village Chak Bandi and arrested accused Shyama Pahari therefrom and forwarded him before Court on the same day. In course of investigation he went to Dakshin Alinagar village on 15.12.03 in the night on the basis of a tip off and he held raid at the house of Mantu Moulana @ Ajijur Rahaman and after search he seized one red coloured Yahama Crux R Motor cycle which was used at the time of kidnapping the girl under a seizure list in presence of witnesses. The seizure list prepared and signed by him, marked Ext. 5/1. The seized vehicle bore regd. No. WB-66/A/5833 which is mentioned in his seizure list. He obtained the signature of Ajijur Rahaman @ Mantu Moulana as owner of the said house on the seizure list. The signature of Ajijur Rahaman on the seizure list marked Ext.5/2. He also arrested Montu Moulana @ Ajijur Rahaman on the same day and produced him before Ld. C.J.M., on the next day. He also examined available witnesses at Dakshin Alinagar village and recorded their statements u/s 161 Cr.P.C. In course of investigation on 16.12.03 He received one information from the officer-in-charge of Mothabari O.P. under Kaliachak P.S. and on the basis of that information he went to Babla Kamalpur village via Mothabari O.P. As per information and with the help of local villagers he fixed up the house of Naresh Saha and held raid at that house in presence of witnesses. Naresh Saha was not

available at his house at that time I recovered the school bag, books, exercise books, Identity Card with phone issued by School authority from the said house. The said articles belonged to Prativa Sharma, the victim girl. He seized those articles in presence of the, witnesses under a seizure list prepared by and signed by him. The said seizure list marked Ext. 6/1. The wife of Naresh Saha named Usha Saha was present in that house. He obtained her L.T.I. on the said seizure list. Her L.T.I. was attested by him. The said L.T.I. along with my endorsement, marked Ext. 6/2. Those were the said seized articles namely school bag, books, exercise books, and photo identity card issued by the school in favour of the victim girl, which were already marked Mat. Ext. III (collectively). He arrested Usha Saha from the said house and on the next day she was produced before Ld. Court. On interrogation accused Usha Saha disclosed, the names of another two persons in whose house the victim girl was kept confined. She gave the names of two persons namely Biswa Saha and Mina Rani Saha. They are also co-villager of BablaKamalpur. He held raid at their houses and arrested both of them from their houses and they were forwarded before court on the next day. On 16.12.03 one information came to their E.B.P.S. and according to their information he myself along with force from E.B.P.S. started for Kathalbari village within district Sahebganj, P.S. Radhanagar under Jharkhand. Their information was that the victim Prativa Sharma and accused Fagu Saha @ Sunil Saha were traced out at village -

Kathalbari under P.S. Radhanagar within district of Sahebganj in Jharkhand and the local people already detained them and on the basis of that information they had been to village - Kathalbari, After reaching the village Radhanagar they found that O.C., Radhanagar P.S. S.I. Surendra Kr. Singh and the force of that P.S. had just arrived at the spot. On reaching there they found that the local people detained Fagu Saha @ Sunil along with the victim girl Prativa near the house of Urmi @ Urmila Saha. They arrested Fagu Saha and took him in their custody and recovered Prativa Sharma and took her to their custody. Necessary requisition issued by him to O.C., Radhanagar P.S. He issued Memo of arrest at the spot. O.C., Radhanagar has put his signature on the arrest memo as witness. The carbon copy of that requisition prepared in carbon process by him and signed by him. The original was handed over to O.C., Radhanagar P.S. The carbon copy of requisition was marked Ext. 16/1. The said Memo or arrest prepared and signed by him containing the signature of O.C. Radhanagar P.S. and other witnesses, marked, Ext. 15/1. In the memo of arrest he obtained the signature of the arrestee. The signature of said arrested person named Fagu Saha was marked Ext. 15/2. He held personal search of Fagu Saha. On search medicines and disposable syringe of injection were recovered from his possession. He seized those articles in presence of local witnesses under a seizure list prepared and signed by him which was marked Ext. 11/2. He obtained the

signature of said accused Fagu Saha on the seizure list which was marked Ext. 11/3. He seized three ampoule of calmpose, one ampoule of fortwin injection, 6 nos. vitrosun 10 mg tablets, one number of ativan-2 mg table. One dsipovan disposable syringe having capacity of 2 ml in a sealed poly thin packet, three pieces of biscuits marked as Ener-G, four numbers of telephone printed bill of public booth, showing payment of phone call, from the possession of Fagu Saha. He examined the available witnesses at Kathalbari village and recorded their statements u/s 161 Cr..C. Thereafter they came back to E.B.P.S. along with accused Fagu Saha, recovered victim girl Prativa Sharma and the seized articles. After arrival at P.S. he sent information to the guardian of Prativa Sharma. Accordingly the parents of Prativa Sharma came to P.S. The wearing apparels which were on the body of the victim during kidnapping were changed and the wearing apparels brought by her parents were given to the victim girl and the wearing apparels which were on her body during the missing period were seized by him under a seizure list in presence of witnesses. He seized the said wearing apparels i.e. one black colour full pant with elastic, one black and red coloured full sleeves shirt for children, one coffee coloured shawl sleeve woolen sweater and one pair of old white skates and one black coloured jangia meant for children. He prepared a seizure list in presence of witnesses and obtained the signatures of witnesses. The seizure list prepared and signed by him, marked Ext.8/2. Those

were the said wearing apparels and other seized articles which were already marked collectively Mat. Ext. I. On the next day he forwarded said accused Fagu Saha before the said Court. He also forwarded said victim girl before Ld. Court on the next day i.e. 17.12.03 along with a prayer for recording her statement u/s 164 Cr.P.C. and his prayer was allowed by Ld. Court and statement of the victim girl was recorded by Ld. Magistrate u/s 164 Cr.P.C. u/s 164 Cr.P.C. marked Exbt. 14-C. On 17.12.03 accused Fagu Saha was taken in police remand as per order of Ld. C.J.M., Malda. Fagu Saha was interrogated by him and following the statement of Fagu Saha he went to Nayansukh village under P.S. Farakka and he interrogated the persons of the house where Fagu took shelter after kidnapping the victim girl and he recorded the statements of those witnesses. The said witnesses namely Sanoka Singha and Sri Bhim Singha became willing to make statements before Judicial Magistrate and accordingly they were produced before Judicial Magistrate for making a statement u/s 164 Cr.P.C. on 18.12.03. Their statements were recorded u/s 164 Cr.P.C. by the Ld. Magistrate, he collected the copy of those statements. The statement of Smt. Sanoka Singh u/s 164 Cr.P.C which was marked Ext. 3/1. The statement of Sri Bhim Singha recorded by Ld. Magistrate u/s 164 Cr.P.C which was marked as Ext.9/2. Fagu Saha disclosed the names of his associates during interrogation namely Pradip Basak, Fitu @ Jahangir Alam, Kajal Ali, Asraful Haque and Naresh Saha.

He held raid at the places shown by accused Fagu Saha to apprehend the said persons named by Fagu Saha. As per the statement of Fagu Saha he had been Kamalabari Jadupur under P.S. English Bazar and he became able to arrest accused Samim Biswas from the house of Md. Mustak Ali of that village on 22.12.03. During personal search he recovered the relevant documents of the motor cycle bearing No. WB-66A/5833 which was already seized. Those documents were seized in presence of witnesses under a seizure list. The seizure list dated 22.12.02 prepared and signed by him, marked Ext. 19. Samim Biswas was also known as Samiur Rahaman. He obtained the signature of said Samiur Rahaman Samim Biswas on the seizure list. The signature on the seizure list made in his presence, marked Ext. 19/1. Accused Samim Biswas was duly forwarded to the Ld. Court. During interrogation accused Fagu Saha disclosed the name of the medicine shop situated at Babla Kamalpur village under P.S. Kaliachak and accused Fagu Saha led himself to the said shop wherefrom he purchased the said injection and tablets. He examined the owner of the said medicine shop and recorded their statements u/s 161 Cr.P.C. They became willing to make statement before Magistrate and accordingly they came on 23.12.03 and on 24.12.03 their statements were recorded u/s 164 Cr.P.C. by Ld. Magistrate. The said persons were Utpal Das, Najrul Biswas and Sambhu Gupta which marked Ext. 12/2. The statement of Utpal Das u/s 164 Cr.P.C. marked Ext.4/1 and the

statement of Sambhu Gupta u/s 164 Cr.P.C. marked Ext. 20. During interrogation Fagu Saha disclosed that by mistake he left the Helmet at the house of Naresh Saha at village Babla Kamalpur under P.S. Kaliachak. He along with the accused went to the house of Naresh Saha and as shown by the accused Fagu Saha the said Helmate was recovered from the house of Naresh Saha. He seized the said Helmate in presence of witnesses under a seizure list prepared and signed by him. The seizure list prepared and signed by him, Ext. 13/1. He also obtained the signature of accused Fagu Saha on the said seizure list. The said signature of Fagu Saha marked Ext.13/2. On 22.12.03 accused Fagu Saha was produced before Court on the expiry of the period of police custody. On the basis of source information he arrested the accused Fitu @ Jahangir Alam from the village Dhamuli under P.S. Ratua and prepared Memo of arrest accordingly. On interrogation the accused disclosed the names of other 2 accuseds namely Asraful Haque and Kajol Sk. and he arrested both them from the said village Dhamuli on 12.01.04. On 12.01.04 he interrogated those 3 accused persons. During interrogation accused Fitu @ Jahangir Alam made statement that if he was taken to the places to be shown by him he would take out the another motor cycle used for kidnapping of the victim as well as school uniform of the victim. He recorded the said statements of the said accused Fitu @ Jahangir. He forwarded those 3 accused persons before Court on 12.01.04. Thereafter Fitu was taken into

police remand as per order of the Court. On 15.01.04 he went to Kochimon Sishu Angan School on the basis of statement made by accused Fitu and examined witnesses namely Ahallya Das, a teacher of that school and Manasi Das, teacher of the same school. On the same day i.e., on 15.01.04 he went to Sahanagar village from the said school along with the accused Fitu. Accused Fitu took out a motor cycle from inside the stack of hay situated on the back side of houses of Kajol and Asraful, both son of Tobarak Hossain in their presence and Fitu also took out the school uniform of the victim girl Prativa out of the tool box of the motorcycle. He seized the motor cycle bearing registration No. WB-16-A/9386 (Kawasaki Bazaz Boxer) of black colour and the school uniform of the victim under a seizure list in presence of witnesses. The said seizure list prepared and signed by him, marked Exbt.-10/2. He also obtained the signature of Fitu @ Jahangir Alam on the said seizure list. The said signature of Fitu Alam on the seizure list, marked Ext. 10/3. The school uniform seized by him contained the embroidery work indicating the name 'Prativa Sharma'. The said top (shirt) skirt containing the name of 'Prativa Sharma' on both by embroidery work, identified Mat. Ext. II collectively. He recorded the statement of Fitu @ Jahangir leading to discovery. The said portion of statement leading to discovery, marked Ext. 21. He also examined the available witnesses in that area under village Sahanagar and recorded their statement's u/s 161 Cr.P.C. He gave requisition to

the R.T.O. Malda to ascertain the name of owner of Motor cycle, R.T.O. gave the reports stating that Md. Jahangir Alam was the owner of that motor cycle. The said report of R.T.O. marked Ext.22. The carbon copy of requisition prepared and signed by him marked Ext.-23.

xxxi. During further examination-in-chief PW-37 stated that in course of investigation he held raid on 17.02.04 and arrested accused Naresh @ Deben Saha from Babla Kamalpur and forwarded the accused on the same day before the Ld. Court. On 05.03.04 he collected the statement of Najrul Islam, Utpal Das and Sambhu Gupta made before Ld. Magistrate u/s 164 Cr.P.C. In course of investigation he made prayer before Ld. Court for issuance of W.P&A against accused Pradip Basak. Thereafter on 29.03.04 he collected the order of W.P. & A against Pradip Basak. After receipt of necessary order from S.P. Malda and after completion of investigation he submitted C.S. against the present 12 accused persons u/s 109/120B/363/368/369/364A/34 of I.P.C. vide C.S. No. 95/04 dated 29.03.04. It was fact that PW-5 Maju Manin stated before him that on 13.12.03, Saturday, at about 10:00 a.m. when he was present at his shop at that time a young boy of 24/25 years along with a minor boy aged about 12/13 years came to his shop and purchased a full-pant and full-shirt for male kid and he noticed at that time that the left hand of the said young man was defective. It was fact that PW-6 Utpal Pas stated before me that on 13.12.03,

Saturday, at about 10:00 a.m. while he was standing in front of a saloon at Babla Stand, he noticed that a young man of 24/25 years along with minor son of Naresh Saha of 12/13 years entered into a cloth shop for purchasing cloths and when he came out from the shop and putting on shoe, PW-6 noticed that his left hand was defective, and that PW-6 subsequently came to know that said young man was involved in a case of kidnapping of a minor girl. PW-8 Ganesh Basak stated before him that Lal Md of their village, his brother-in-law and another person took tea at his shop and thereafter the said brother-in-law of Lal Md. and another person proceeded towards Malda town by a red coloured Motor cycle and that Lal Md. used to work as a tailor at village Barkol Stand. PW-9 Kamrujjaman stated before him that he came to know from the villagers since 2/3 days last that Samim, son of Mantu Moulana was involved in a kidnapping case of a minor daughter of Sharma of village Barkol and that police made search in the house of Mantu Moulana and seized one red coloured motor cycle from the possession of Moulana's son Samim under a seizure list in his presence and the No. of said Motorcycle is WB-66-B/5833. PW-10 Sajiruddin Ali stated before him that Bhagna (sister's son) of Naresh Saha named Fagu Sunil Saha was moving in the field of Mardasha with the said girl whose photograph he saw in the news paper. PW-10 also stated before him that on being asked accused Usha Saha, Biswa Saha and Minarani Saha confessed before him that on

12.12.03, Friday at about 11 a.m. Fagu Saha, nephew of accused Naresh Saha, and another person with the kidnapped girl, Prativa, came to the house of accused Naresh Saha riding a red coloured motor cycle and they told before P.W. 10 that the unknown person went away with said red coloured motor cycle and Fagu Saha in consultation with his maternal uncle, Naresh Saha, kept the kidnapped girl in the house of Biswa Saha and Mirarani Saha and on the next day i.e. Saturday at about 10/11 a.m. Fagu Saha fled away with Prativa. P.W. 12 stated before him that, on 13.12.03 in the morning he found Fagu Saha, Bhagna of Naresh Saha at the field of Madrash along with a child similar to the photograph of the child published in the news paper and on 16.12.03 at about 9:45 a.m., Baro Babu of Mothabari O.P. and the I.O. of this case came to their village and made search at the house of Naresh Saha while Naresh Saha was absent and one school bag was recovered from Usha Saha, wife of Naresh saha, and from that school bag books on several subjects, exercise book in the name of Prativa Sharma and one identity card with photograph of Prativa Sharma were also found out and the little girl found along with Fagu Saha had got similar appearance with the photograph of the girl published and the identity card with photograph was seized by I.O. had got the similarity with the photo published in the news paper and that wife of Naresh Saha disclosed before the I.O. in pray of them that last Friday at about 11 a.m. their Bhagina Fagu Saha @ Sunil came to

their house along with his one associate and kidnapped child riding a red coloured motor cycle and stayed at their house at first and thereafter made consultation with Naresh and concealed themselves in the house of Biswa Saha during that night and on the next day i.e. on Saturday Fagu left the place along with said child. PW-14 stated before him that on 15/16.12.03 at about 12 in the night police of E.B.P.S. came to their village and made search in the house of Mantu Moula and seized the motor cycle of Samim which was of red coloured Yamaha Crux Motor cycle having regd. no WB-66-B/5833 in his presence and prepared a seizure-list whereon he had put his signature and Samim was involved in the incident of kidnapping of the female child of Sharma of village Barkol. PW-19 stated before him that on 15.01.04 in the afternoon police recovered one Kawasaki Bajaj Motor Cycle with a Dicky Box bearing No. WB-66A/9386 from under the stack of straws situated on the western side courtyard behind the house of Tobarao Hossain which was shown by arrested accused Fitu @ Jahangir Alam and on opening the said tool box police recovered one cream coloured full sleeve shirt of a minor girl and one gown from inside a carry bag and police prepared a seizure list whereon PW-19 had put his signature. PW-23 stated before him that on 21.12.03 in the mid-night police held raid at the house of Naresh Saha bringing the arrested accused Fagu Saha there/and one red coloured power helmet was recovered from the house of Naresh Saha and police seized the same and PW-23

had put his signature on the seizure list as recovery was made in presence. PW-23 also stated before him that in his presence Fagu stated that on interrogation that the helmet belonged to Samim and at the time of kidnapping of Prativa Sharma from Kotowali Bridge Fagu and Samim used the said helmet and when Fagu and Samim came to the house of Naresh Saha riding a motor cycle. PW-28 stated before him that on 13.12.03, Saturday, at about 10 a.m. one young boy of 22/24 years having his left hand handicapped came to his shop along with minor son of Naresh Saha and wanted to purchase child garment and there-after left his shop as no garment was liked by him.

23. The Hon'ble Supreme Court in the case **of Sannaia Subba Rao and Ors. v. State of Andhra Pradesh** has observed thus:

“50. The ingredients of Section 363 IPC involve an act of kidnapping of any person from the lawful guardianship. Kidnapping from the lawful guardianship is defined under Section 361 IPC, where it is stated that whoever takes or entices any minor under sixteen years of age if a male, or under eighteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, a case of kidnapping is made out.”

24. The Hon'ble Supreme Court held the following in **Saroj Kumari v. State of U.P.**¹:-

“10. To constitute an offence under Section 368, it is necessary that the prosecution must establish the following ingredients:

¹(1973) 3 SCC 669

(1) The person in question has been kidnapped.

(2) The accused knew that the said person had been kidnapped.

(3) The accused having such knowledge, wrongfully conceals or confines the person concerned.

11. *That the child in question had been kidnapped by the second accused from its lawful custody, namely, the mother, PW 1, has been amply established in this case. In fact the appellant's counsel was not able to point out any infirmity in the findings recorded by the courts in this regard. So far as the second ingredient is concerned, namely, that the appellant had the knowledge that the child had been kidnapped, it is an inference to be drawn by the courts from the various circumstances. The child was of tender age, being less than 15 hours old. The appellant admittedly had no child of her own. The second accused, it has been established, had not delivered a child within 15 days of November 5, 1963. The second accused was in the company of the appellant in the latter's room along with the child when the police party visited her on the morning of November 6, 1963. It was not the plea of the appellant that the second accused was on a visit to her with the child at the material time. In fact the appellant's plea was that the entire story of seizure of the child from her room is absolutely false and that she does not know the second accused. It was her further plea that the second accused was not in her room at the material time. From these circumstances, the only legitimate inference that can be drawn, as has been done in this case by the two courts, is that the appellant must have had knowledge that the child had been kidnapped from the lawful custody of its mother. Therefore the second ingredient is also satisfied in this case."*

25. The Hon'ble Supreme Court held the following in **Anversinh v. State of Gujarat**²:-

“13. A perusal of Section 361 IPC shows that it is necessary that there be an act of enticing or taking, in addition to establishing the child's minority (being sixteen for boys and eighteen for girls) and care/keep of a lawful guardian. Such “enticement” need not be direct or immediate in time and can also be through subtle actions like winning over the affection of a minor girl. [Thakorlal D. Vadgama v. State of Gujarat, (1973) 2 SCC 413, para 10 : 1973 SCC (Cri) 835] However, mere recovery of a missing minor from the custody of a stranger would not ipso facto establish the offence of kidnapping. Thus, where the prosecution fails to prove that the incident of removal was committed by or at the instigation of the accused, it would be nearly impossible to bring the guilt home as happened in King Emperor v. Gokaran [King Emperor v. Gokaran, 1920 SCC OnLine Oudh JC 32 : AIR 1921 Oudh 226] and Emperor v. Abdur Rahman [Emperor v. Abdur Rahman, 1916 SCC OnLine All 63 : AIR 1916 All 210] .

14. Adverting to the facts of the present case, the appellant has unintentionally admitted his culpability. Besides the victim being recovered from his custody, the appellant admits to having established sexual intercourse and of having an intention to marry her. Although the victim's deposition that she was forcefully removed from the custody of her parents might possibly be a belated improvement but the testimonies of numerous witnesses make out a clear case of enticement. The evidence on record further unequivocally suggests that the appellant induced the prosecutrix to reach at a designated place to accompany him.”

²(2021) 3 SCC 12

26. The following was held by the Hon'ble Supreme Court in **Sajjan Kapar v.**

State of Bihar³:-

“4. Reverting now to the offences under Section 363 and Section 368 IPC, it was contended by learned counsel appearing as amicus curiae on behalf of the appellant that the evidence shows that PW 6 had on her own decided to abandon her parents and accompany the appellant. It is pointed out that they travelled for three days and covered a long distance from Samastipur in the State of Bihar and ultimately reached Dhubri in Assam after travelling through West Bengal and changing a number of buses. All through the journey, it is submitted that there were various persons in the bus. It may be so but at the same time we cannot ignore the statement of PW 6 that on realising that she was not being taken to the hospital but elsewhere, she asked the appellant about it but he gave her a threat and on that account she did not raise any alarm. We, under these circumstances, are unable to accept the contention that on this count the offence of kidnapping against the appellant has not been made out. Section 361 of the Penal Code, 1860, inter alia, provides, whoever takes or entices any minor under eighteen years of age in case of a female, out of the keeping of the lawful guardian of such minor, without the consent of such guardian, is said to kidnap such minor from lawful guardianship. Explanation to Section 361 provides that the words “lawful guardian” include any person lawfully entrusted with the care or custody of such minor or other person. From the testimony of PW 3, PW 6 and PW 8, the Court of Session and the High Court have reached a finding of fact that the appellant took away PW 6 from her school in the manner the prosecution alleges. The school had been lawfully entrusted with the care or custody of PW 6 and the appellant took her from that custody. We see no reason to disturb the findings of fact reached by two courts

³(2005) 9 SCC 426

on appreciation of evidence. The offence of kidnapping was complete when the appellant took away PW 6 from the school. The fact that the appellant gave food to PW 6 on the way to Assam or she was fairly well looked after in Assam will have no relevance insofar as the commission of offence of kidnapping is concerned. We may note that the case sought to be put forth by the appellant was that the two of them were in love. In cross-examination of PW 6 some letters were sought to be put to her as also a diary. These documents were, however, denied by PW 6. Further, it cannot be ignored that she was a minor and could not be taken away from the custody of the school in the manner the appellant is found to have taken her away.”

27. The following was held by the Hon’ble Supreme Court in **Parkash v. State of Haryana**⁴:-

“6. Next comes the question whether ingredients of Sections 363 and 366 IPC are made out.

7. Section 361 IPC reads:

“361. Kidnapping from lawful guardianship.—Whoever takes or entices any minor under sixteen years of age if a male, or under eighteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation.—The words ‘lawful guardian’ in this section include any person lawfully entrusted with the care of custody of such minor or other person.

Exception.—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the

⁴(2004) 1 SCC 339

lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.”

The object of this section seems as much to protect the minor children from being seduced for improper purposes as to protect the rights and privileges of guardians having the lawful charge or custody of their minor wards. The gravamen of this offence lies in the taking or enticing of a minor under the ages specified in this section, out of the keeping of the lawful guardian without the consent of such guardian. The words “takes or entices any minor ... out of the keeping of the lawful guardian of such minor” in Section 361, are significant. The use of the word “keeping” in the context connotes the idea of charge, protection, maintenance and control; further, the guardian's charge and control appears to be compatible with the independence of action and movement of the minor, the guardian's protection and control of the minor being available, whenever necessity arises. On plain reading of this section the consent of the minor who is taken or enticed is wholly immaterial; it is only the guardian's consent which takes the case out of its purview. Nor is it necessary that the taking or enticing must be shown to have been by means of force or fraud. Persuasion by the accused person which creates willingness on the part of the minor to be taken out of the keeping of the lawful guardian would be sufficient to attract the section.

8. *In State of Haryana v. Raja Ram [(1973) 1 SCC 544 : 1973 SCC (Cri) 428] English decisions were noticed by this Court for the purpose of illustrating the scope of the protection of minor children and of the sacred right of the parents and guardians to the possession of their minor children under the English law. The decisions noticed were R. v. Job Timmins [169 ER 1260 : Bell 276] , R. v. Handley [175 ER 890 : 1 F & F 648] and R. v. Robb [176 ER 466 : 4 F & F 59] . In the first case Job Timmins was convicted of an*

*indictment framed upon 9 Geo. IV, ch. 31, Section 20 for taking an unmarried girl under sixteen out of the possession of her father, and against his will. It was observed by Erle, C.J. that the statute was passed for the protection of parents and for preventing unmarried girls from being taken out of possession of their parents against their will. Limiting the judgment to the facts of that case it was said that no deception or forwardness on the part of the girl in such cases could prevent the person taking her away from being guilty of the offence in question. The second decision is authority for the view that in order to constitute an offence under 9 Geo. IV, ch. 31, Section 20 it is sufficient if by moral force a willingness on the part of the girl to go away with the prisoner is created; but if her going away with the prisoner is entirely voluntary, no offence is committed. The last case was of a conviction under the statute (24 & 25 Vict. ch. 100, Section 55). There inducement by previous promise or persuasion was held sufficient to bring the case within the mischief of the statute. In the English statutes the expression used was “take out of the possession” and not “out of the keeping” as used in Section 361 IPC. But that expression was construed in the English decisions not to require actual manual possession. It was enough if at the time of the taking the girl continued under the care, charge and control of the parent — see *R. v. Mankletow* [(1853) 6 Cox Criminal Cases 143 : 169 ER 678] . These decisions were held to confirm the view that Section 361 is designed also to protect the sacred right of the guardians with respect to their minor wards.”*

28. The following was held by the Hon’ble Supreme Court in **Om Prakash v.**

State of Haryana⁵:-

30. *In Saroj Kumari v. State of U.P. [(1973) 3 SCC 669 : 1973 SCC (Cri) 475] this Court while explaining the constituents of an offence under Section 368 IPC clearly held that when the person in question*

⁵(2011) 14 SCC 309

has been kidnapped, the accused knew that the said person had been kidnapped and the accused having such knowledge, wrongfully conceals or confines the person concerned then the ingredients of Section 368 IPC are said to be satisfied.

29. The following was held by the Hon'ble Supreme Court in **Manoj Suryavanshi v. State of Chhattisgarh**⁶:-

“24. As observed by this Court in Leela Ram v. State of Haryana [Leela Ram v. State of Haryana, (1999) 9 SCC 525 : 2000 SCC (Cri) 222 : AIR 1999 SC 3717] , there are bound to be some discrepancies between the narrations of different witnesses, when they speak on details, and unless the contradictions are of a material dimension, the same should not be used to jettison the evidence in its entirety. It is further observed that corroboration of evidence with mathematical niceties cannot be expected in criminal cases. Minor embellishment, there may be, but variations by reason therefore should not render the evidence unbelievable. Trivial discrepancies ought not to obliterate an otherwise acceptable evidence. The Court shall have to bear in mind that different witnesses react differently under different situations : whereas some become speechless; some start wailing while some others run away from the scene and yet there are some who may come forward with courage, conviction and belief that the wrong should be remedied. So it depends upon individuals and individuals. There cannot be any set pattern or uniform rule of human reaction and to discard a piece of evidence on the ground of his reaction not falling within a set pattern is unproductive. Therefore, we are of the opinion that the so-called minor discrepancies/contradictions do not ultimately affect the case of the prosecution. The benefit of such minor discrepancies/contradictions should not go to the accused, more

⁶(2020) 4 SCC 451

particularly, when from the other evidences on record the guilt of the accused has been established and proved.”

30. The Hon’ble Supreme Court held the following in **State of M.P. v. Balveer Singh**⁷, reported in **2025 SCC OnLine SC 390**:-

“58.....(VII) There is no requirement or condition that the evidence of a child witness must be corroborated before it can be considered. A child witness who exhibits the demeanour of any other competent witness and whose evidence inspires confidence can be relied upon without any need for corroboration and can form the sole basis for conviction. If the evidence of the child explains the relevant events of the crime without improvements or embellishments, the same does not require any corroboration whatsoever.....”

31. The Hon’ble Supreme Court held the following in **Ratansinh Dalsukhbhai Nayak v. State of Gujarat**⁸:-

“7. ... The decision on the question whether the child witness has sufficient intelligence primarily rests with the trial Judge who notices his manners, his apparent possession or lack of intelligence, and the said Judge may resort to any examination which will tend to disclose his capacity and intelligence as well as his understanding of the obligation of an oath. The decision of the trial court may, however, be disturbed by the higher court if from what is preserved in the records, it is clear that his conclusion was erroneous. This precaution is necessary because child witnesses are amenable to tutoring and often live in a world of make-believe. Though it is an established principle that child witnesses are dangerous witnesses as they are pliable and liable to be influenced easily, shaped and moulded, but it is also an accepted norm that if after careful scrutiny of their evidence the court comes to the conclusion that there is an impress of truth in it, there is no obstacle in the way of accepting the evidence of a child witness.”

⁷2025 SCC Online SC 390

⁸(2004) 1 SCC 64

32. Under section 118 of the Indian Evidence Act 1872, a child of tender age can testify as a witness if the court find the child has the intellectual capacity to understand questions and give rational answers and is not tutored. In the instant case as far as the appellants Fitu alias Jahangir Alam and Samim Biswas alias Saminur Rahaman and another, the evidence of the victim PW-35 required utmost attention to test its reliability and credibility. The victim girl in her evidence elucidated the incident of her being kidnapped by Fagu Saha and Samim Biswas alias Saminur Rahaman to have carried her by motor cycle from the bridge. PW-35, the victim identified appellant Fagu Saha who took her to several houses and lastly a house near the river and used to push injections. The victim girl further testified when she was confined in the first house, two persons had arrived there by a motorcycle and one of them told the appellant Fagu Saha that the police had already been informed and asked the appellant Fagu Saha to shift her to another house and such conversation was heard by the victim. The victim went to the dock and identified accused Jahangir alias Fitu alias Jahangir Alam as the person who told the police had been informed already and she had to be shifted.
33. Her statement implicating Fitu alias Jahangir Alam had been corroborated by the evidence of the investigating officer that is PW-37 whereby on the basis of a source information, PW-37 had arrested the accused Fitu alias Jahangir Alam from the village Dhamuli under PS Ratua and prepared the memo of arrest accordingly.

34. On the basis of source information PW-37 arrested the accused Fitu @ Jahangir Alam from the village Dhamuli under P.S. Ratua and prepared Memo of arrest accordingly. On interrogation the accused disclosed the names of other 2 accused namely Asraful Haque and Kajol Sk. and he arrested both them from the said village Dhamuli on 12.01.04. On 12.01.04 he interrogated those 3 accused persons. During interrogation accused Fitu @ Jahangir Alam made statement that if he was taken to the places to be shown by him he would take out the another motor cycle used for kidnapping of the victim as well as school uniform of the victim. He recorded the said statements of the said accuseds Fitu @ Jahangir. He forwarded those 3 accused persons before Court on 12.01.04. Thereafter Fitu was taken into police remand as per order of the Court. On 15.01.04 he went to Kochimon Sishu Angan School on the basis of statement made by accused Fitu and examined witnesses namely Ahallya Das, a teacher of that school and Manasi Das, teacher of the same school. On the same day i.e., on 15.01.04 he went to Sahanagar village from the said school along with the accused Fitu. Accused Fitu took out a motor cycle from inside the stack of hay situated on the back side of houses of Kajol and Asraful, both son of Tobarak Hossain in their presence and Fitu also took out the school uniform of the victim girl Prativa out of the tool box of the motorcycle. He seized the motor cycle bearing registration No. WB-16-A/9386 (Kawasaki Bazaz Boxer) of black colour and the school uniform of the victim under a seizure list in presence of witnesses. The said seizure list prepared and signed by him, marked Exbt.-10/2. He also obtained the signature of Fitu @ Jahangir Alam

on the said seizure list. The said signature of Fitu Alam on the seizure list, marked Ext. 10/3. The school uniform seized by him contained the embroidery work indicating the name 'Prativa Sharma'. The said top (shirt) skirt containing the name of 'Prativa Sharma' on both by embroidery work, identified Mat. Ext. II collectively. He recorded the statement of Fitu @ Jahangir leading to discovery. The said portion of statement leading to discovery, marked Ext. 21. He also examined the available witnesses in that area under village Sahanagar and recorded their statement's u/s 161 Cr.P.C. He gave requisition to the R.T.O. Malda to ascertain the name of owner of Motor cycle, R.T.O. gave the reports stating that Md. Jahangir Alam was the owner of that motor cycle. The said report of R.T.O. marked Ext.22. The carbon copy of requisition prepared and signed by him marked Ext.-23.

35. The victim had also gone to the dock during her examination and identified Sunil Saha alia Shogu Shah and Samim Biswas alias Saminur Rahaman as the two persons who carried her by motor cycle from the bridge.
36. She vividly described as to the role of Fagu Saha and the other two appellants. Her entire evidence corroborated with the recording of evidence of other prosecution witnesses as aforesaid and also that of the PW-37 of the investigating officer. The seizure of ampules, injections, syringe and sedative tablets etc as aforesaid corroborated that the victim girl was injected with sedatives which had an effect of drowsiness in her as deposed by the victim. The seizure of both the motor bikes as stated above as well as the helmet and school uniform from the stack of straws as shown by the appellant Fitu

alias Jahangir Alam obviated the claim of the victim. The victim had also recorded her statement under Section 164 of the Criminal Procedure Code.

37. It could not have been possible for a child studying in class one in a school to portray a vivid description of the episode of her being kidnapped and thereafter recovered with minute details corroborating with the evidence of the prosecution witnesses as stated above in terms of the extortionate phone call being received by the father of the victim
38. Thereafter, her photograph being circulated among the newspaper and tv channels which lead to the identification of the victim through independent witnesses being PW-15, 16, 17, 18, 20, 21,22, 25,27, 32 and 33 who in unison corroborated the incidence which established the fact of the victim being kidnapped and administered with sedative injections having being purchased by the appellant Fagu Saha.
39. The victim was further to have stated a big river which had been an undeniable fact.
40. The medicines and disposable syringe of injection were recovered from the position of the appellant Fagu Saha which was seized under a seizure list prepared and signed by PW-37, marked as Exhibit 11/2. the signature of the appellant Fagu Saha, obtained of the seizure list was marked exhibit 11/3.
41. PW-37 as per the statement of appellant Fagu Saha arrested the appellant Samim Biswas alias Saminur Rahaman from the house Mohammad Mustaf Ali of Kamala Bari Jadupur on 22.12.2003. PW-37 recovered the relevant documents of motor cycle bearing No. WB-66B/5833 which had already been seized. The seizure list dated 22/12/02 in connection with seizure of

documents of the aforesaid motorcycle bore the signature of the appellant Samim Biswas alias Saminur Rahaman in the presence of PW-37 and other witnesses marked Exhibit 19/1.

42. PW-14 had stated before PW-37 that on 15/16.12.03 at about 12 in the night police of E.B.P.S. came to their village and made search in the house of Mantu Moula and seized the motor cycle of Samim which was of red coloured Yamaha Crux Motor cycle having regd. no WB-66-B/5833 in his presence and prepared a seizure-list whereon he had put his signature and Samim was involved in the incident of kidnapping of the female child of Sharma of village Barkol. PW-19 stated before him that on 15.01.04 in the afternoon police recovered one Kawasaki Bajaj Motor Cycle with a Dicky Box bearing No. WB-66A/9386 from under the stack of straws situated on the western side courtyard behind the house of Tobarao Hossain which was shown by arrested accused Fitu @ Jahangir Alam and on opening the said tool box police recovered one cream coloured full sleeve shirt of a minor girl and one gown from inside a carry bag and police prepared a seizure list whereon PW-19 had put his signature. PW-23 stated before him that on 21.12.03 in the mid-night police held raid at the house of Naresh Saha bringing the arrested accused Fagu Saha there/and one red coloured power helmet was recovered from the house of Naresh Saha and police seized the same and PW-23 had put his signature on the seizure list as recovery was made in presence. PW-23 also stated before him that in his presence Fagu stated that on interrogation that the helmet belonged to Samim and at the time of kidnapping of Prativa Sharma from Kotowali Bridge Fagu and Samim used

the said helmet and when Fagu and Samim came to the house of Naresh Saha riding a motor cycle. PW-28 stated before him that on 13.12.03, Saturday, at about 10 a.m. one young boy of 22/24 years having his left hand handicapped came to his shop along with minor son of Naresh Saha and wanted to purchase child garment and there-after left his shop as no garment was liked by him.

43. The chain of circumstances had been intricately linked with one another from the time of the victim girl being kidnapped till the time of her recovery. The victim girl was taken by the appellant Fagu Saha and Samim Biswas alias Saminur Rahaman on their motor cycle which had been proved by the prosecution. The stay of victim at different houses from time to time being injected with medicines to make her unconscious, her wearing apparel being changed with new ones being purchased from the shop, the ampules, injections, syringes being purchased from the medicine shop, the arrival of the Malda Police in collaboration with the local police recovering the victim from the clutches of the appellant Fagu Saha had been sequentially and categorically proved by the prosecution. Inconsistencies, contradiction and discrepancies as pointed out by the learned advocate representing the appellant did not affect the prosecution case on the basis of reliable, voluntary, consistent, and corroborative evidence of the victim which could not under any circumstances and figment of imagination be concocted and fabricated by the victim of such a tender age since she had herself experienced the entire process of being kidnapped and thereafter recovered by the police from the confinement of the appellants.

44. The prosecution had been successful in establishing the case of the victim being kidnapped from the lawful guardianship, thereafter being wrongfully confined with the criminal intent of extortion of money from the father of the victim.
45. In the view of the above discussions and decisions, the impugned judgment and order passed by the Trial Court is not interfered with.
46. In view of the above discussions, the instant Criminal Appeals being CRA 380 of 2013 with CRA 382 of 2013 are dismissed.
47. There is no order as to costs.
48. Trial Court records along with a copy of this judgment be sent down at once to the Learned Trial Court for necessary action.
49. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)