

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-808-SB-2004(O&M)
Reserved on:09.09.2025
Pronounced on: 22.09.2025

Vijay Kumar and others ...Appellants
Versus
State of PunjabRespondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:-. Mr. N.S. Dandiwal, Advocate for the appellants.

Ms. Guramrit Kaur, DAG, Punjab.

KIRTI SINGH, J.

The present appeal has been preferred against the judgment of conviction and order of sentence dated 07.04.2004 passed by the learned Additional Sessions Judge, Bathinda, whereby, the appellants have been convicted for charge under Section 363, 366-A and 120-B IPC.

Accused Vijay Kumar			
Sentence under Section	Sentenced to RI	Fine	In default of payment of fine
120B IPC	03 years and 03 months	500/-	SI for 06 months
363 IPC	03 years and 03 months	500/-	SI for 06 months
366-A	03 years and 03 months	500/-	SI for 06 months
Accused Murti Devi			
120B IPC	3 years and 3 months	500/-	SI for 06 months
363 read with Section 120-B IPC	3 years and 3 months	500/-	RI for 06 months
366-A read with 120 B	03 years and 03 months	500/-	SI for 06 months



2. The factual matrix of the instant case which is relevant for the disposal of the present appeal is that on 11 May 2002, the complainant-father of the prosecutrix reported that his minor daughter had been enticed away by accused Vishant Kumar; and that when confronted about the same, the father of the accused did not give a satisfactory response, indicating towards his complicity. Upon this statement, the afore-mentioned FIR was lodged, and investigation carried out. The medical examination of the prosecutrix carried out upon her recovery confirmed sexual assault, corroborated by forensic evidence. Upon completion of the investigation, a charge sheet was filed under Sections 363, 366-A, 376, and 120-B IPC, and the case was committed to the Court of Sessions for trial against 6 accused. After the completion thereof as per the procedure laid down in the criminal Code, the learned trial Court proceeded to acquit three of the accused, citing lack of convincing evidence against them; whilst simultaneously holding that the prosecution had succeeded in proving the main accused and his parents (appellants herein) guilty of criminal conspiracy under Section 120-B IPC. Therefore, accused Vijay Kumar and Murti Devi (parents of the main accused) were convicted for kidnapping and abduction under Sections 363 and 366A IPC in pursuance of criminal conspiracy, while main accused Vishant Kumar was held directly guilty under these sections. However, accused Vijay Kumar and Murti Devi were acquitted of conspiracy related to the offence under Section 376 IPC, under which charge Vishant Kumar was convicted, by giving them the benefit of doubt.

3. Aggrieved by the aforesaid judgment of conviction, the instant appeal was preferred, during the pendency of which appellant



No.3 Vijay Kumar passed away, and thus the appeal qua him was abated vide order dated 22.09.2022. As such, present before this Court are two appellants, i.e. parents of the deceased appellant, who have been convicted under Sections 363, 366-A, and 120-B IPC.

4. Learned counsel for the appellants has argued that the parents of the accused have been wrongly convicted in this case. The first plank of submissions advanced is that appellant No.3 and the prosecutrix were in a consensual relationship, and that the prosecutrix had voluntarily left her home on the night of 10.05.2002 while her family was present in the same house but asleep. She eloped with appellant No.3 and they lived together as husband and wife in Mansa and later Sirsa for about three months. During that period, no complaint was made or hue and cry raised by the prosecutrix before anyone including the neighbours, let alone the official authorities. It was when the parties were apprehended by the investigating agency that the prosecutrix changed her stance and levelled allegations under pressure and influence. It is submitted that appellant Nos. 1 and 2 were only nominated as accused and subsequently convicted on the basis of surmise and conjectures, solely for the reason of them being the parents of appellant No.3. The truth of the matter is that appellant Nos. 1 and 2 had no role to play in the elopement of the prosecutrix with their son. Rather, it was categorically stated by appellant No.3 in his deposition under section 313 Cr.P.C. that his parents were opposed to his relationship with the prosecutrix, and that he had even been beaten and turned out of his home by appellant No.1 for that reason. It was thus that he had left his home and thereafter accompanied the prosecutrix. It was also not the case of the prosecution that subsequent to their elopement, the appellants had actively facilitated the stay of the



parties. Learned counsel contends that no ingredients of the offences that the appellants have been charged with are infact made out against them. Moreover, the impugned judgment of the learned trial court lacks any specific finding regarding the alleged criminal conspiracy among the appellants, and is also particularly silent qua the specific role, if any, played by appellant No.2. No evidence or reasoning has been provided to establish her involvement. With respect to the age of the prosecutrix, it is the submission that the prosecution could not prove the authenticity of her date of birth as recorded in her school records, making it unreliable. Rather, PW-4Dr. Dheera Gupta had stated that the prosecutrix could possibly be over 18 years old. Accordingly, the conviction of appellants No. 1 and 2 is not sustainable under section 366-A either. It is thus submitted that the impugned judgment of conviction reflects a significant lapse in judicial reasoning concerning the guilt of appellants No. 1 and 2, and it is submitted that they be acquitted in view of the submissions so advanced.

5. *Per contra* learned State counsel has opposed the prayer and has submitted that to prove its case, the prosecution examined 5 witnesses, all of whom supported the prosecution version. It was thereafter, upon the proper appreciation of the facts of the case and the entire evidence on record that the learned Trial Court, by way of a well reasoned judgment, rightly held appellants No. 1 and 2 guilty of conspiring with appellant no.3 in the abduction of the prosecutrix, and convicted them accordingly to undergo the sentence as aforesaid.

6. Heard the rival submissions made by learned counsel on either side and perused the entire record with their able assistance.

7. Before proceeding to adjudicate, it would be apposite to first



refer to provisions of the IPC under which appellants No. 1 and 2 have been convicted, the bare language of which reads thus:

A) “Section 363- Punishment for kidnapping:

Whoever kidnaps any person from India or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

B) “Section 366A- Procurement of minor girl:

“Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.”

C) “Section 120B- Punishment of criminal conspiracy:

1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.”

8. Criminal conspiracy includes in its ambit any act done by a party in furtherance of their agreement to commit an illegal act, or an act which is not illegal, by illegal means. Punishment for the same has been prescribed, particularly with respect to offences punishable with rigorous imprisonment for a term of two years or upwards, in the absence of any express provision providing for the for the punishment of such a



conspiracy, to be in the same manner as if the person had abetted such offence.

9. To prove an offence punishable under section 363 IPC, it must be shown that a person was kidnapped out of their lawful guardianship. Similarly, to sustain a charge under section 366A, it must be established that a minor girl had been induced to go from any place, or to do any act with the intention or knowledge that she would be forced or seduced into illicit intercourse with another person.

10. Reverting to the case in hand, it is not in dispute that no overt act of enticing or taking away the minor prosecutrix was attributable to appellant Nos. 1 and 2, and thus it was only for the conspiracy to commit the offences under section 363 and 366A that they were convicted. Therefore, the sole question for determination before this Court is whether appellant Nos. 1 and 2 actively conspired with appellant No.3 to induce/kidnap the prosecutrix out of the lawful guardianship of her parents, knowing that she would be subjected to illicit intercourse. A through perusal of the judicial record reveals that there is no direct evidence on record to establish the complicity of appellant Nos. 1 and 2. Rather, it was the categoric deposition of the main accused (son of appellant Nos. 1 and 2) that he had been beaten and turned out of his home by appellant No.1, since his relation with the prosecutrix was not acceptable to his parents. Furthermore, no overt act has been attributed to appellant Nos. 1 and 2 regarding their role in the purported kidnapping of the prosecutrix. Rather, it is the admitted case that the prosecutrix had travelled with appellant No.3 on public transport, and thereafter stayed with him for a period of about three months; however, at no point in time



was any alarm raised by the prosecutrix regarding her forced abduction. The conviction of appellant Nos. 1 and 2 was surmised by the learned Court by observing that “...*the running away of the prosecutrix and Vishant was to the knowledge of his parents perhaps they might have submitted to his pressure as per his plea in statement under section 313 Cr.P.C. as he has alleged that he was in love with the prosecutrix and wanted to marry her although his parents were opposed to that. The inference could be raised that he abducted the prosecutrix with the consent/conspiracy of his parents.*”, which reasoning does not appeal to the considered mind of this Court. In the absence of any evidence, direct or circumstantial, to corroborate the allegations and deterministically establish that appellant Nos. 1 and 2 conspired to or took out/induced the prosecutrix out of the lawful guardianship of her parents, the Court has no hesitation in holding appellant Nos. 1 and 2 as not guilty.

11. Therefore, in view of the foregoing discussion, the appeal is allowed. The conviction and sentence of appellant Nos. 1 and 2 under Sections 363, 366A read with/and section 120-B IPC is set aside and they are acquitted of all charges.

13. The fine paid, if any, shall be refunded to them forthwith.

14. All pending application(s), if any, are disposed of, accordingly.

Records of the trial court, if had been called for, be sent back.

(KIRTI SINGH)
JUDGE

September 22, 2025

Kapil

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No