



\$~58

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 1037/2017**

PINTU KUMAR

.....Appellant

Through: Mr. Neeraj Kumar, Advocate with
appellant in person

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

%

15.09.2025

1. The present appeal has been instituted under Section 374 r/w 482 Cr.P.C. against the impugned judgment of conviction dated 10.10.2017 and order on sentence dated 14.10.2017, passed by the ASJ (Pilot Court), Tis Hazari Courts, Delhi in Sessions Case No. 22/17 arising out of FIR No. 351/2016 registered under Sections 364A IPC at P.S. Mundka, Delhi.

Vide the impugned order on sentence, the appellant was sentenced to undergo RI for a period of 3 years for the offence punishable under Section 363 IPC alongwith fine of Rs.5,000/-, in default whereof he would undergo RI for 3 months. The aforementioned fine amount of Rs. 5,000/- is to be given to the complainant as compensation. The appellant was granted the benefit under Section 428 Cr.P.C.

The sentence of the appellant was suspended during the pendency of the present appeal vide order dated 13.11.2017.

2. The prosecution, in support of its case, examined a total of 11 witnesses. The material witnesses include the complainant/mother of the



child victim who was examined as PW-1. She deposed that on 14.09.2016, she had dropped her son at school at around 8:00 A.M., and a few hours later, she received a call from the appellant, who informed her that her son was in his custody and would only be returned if she agreed to get him married to her sister. During the call, the appellant made her speak to her son, who informed her that the appellant had picked him up on the pretext of his mother being ill. PW-1 immediately rushed to the school, where she learned that her son had been taken by the appellant under the said pretext. Thereafter, the appellant's phone was found switched off, after which an FIR was lodged. On 15.09.2016, the appellant again contacted PW-1, directing her to board a train to Bihar alone, assuring that he would meet her there with her son and reiterating his demand for marriage arrangements in Bihar. PW-1 informed the IO of this communication. She further stated that she, along with police officials, left for Bihar, where the IO recovered her son from the appellant.

Manju, who was the class teacher of the child victim was examined as PW-2, deposed that on the day of the incident, the appellant approached her at school, on the same pretext and she specifically inquired with the child, who identified the appellant as his uncle (*chacha*), upon which she permitted the child to leave with the appellant.

The child victim was examined as PW-3. He deposed that the appellant had come to his school and on believing the false information of his mother being admitted in the hospital, he accompanied the appellant, who thereafter took him to the railway station and from there to the house of the appellant's *bua*. Subsequently, the police arrived at the said house and brought him back to Delhi.



3. A perusal of the record indicates that although the appellant was charged under Section 364A IPC, there was no evidence of any threat by the appellant to cause death or hurt to the child victim, in fact the child victim was treated well by him. Accordingly, the appellant was acquitted by the trial court under Section 364A IPC. However, it stands proved that appellant took the minor child out of the lawful guardianship of his parents without their consent, and on a false pretext transported him to another State. Further, the testimonies of PW-1, PW-2 and PW-3 are found to be consistent, cogent, and trustworthy. Both witnesses have duly identified the appellant in Court, and nothing material has been brought on record to suggest any motive for false implication. Consequently, the conviction of the appellant qua the offence under Section 363 IPC are upheld.

4. At this stage, the learned counsel for the appellant, on instructions from the appellant who is present in Court and duly identified by the I.O., submits that the appellant does not wish to press the present appeal on merits and instead prays that he be released on the period already undergone by him. He further undertakes to deposit the fine in two weeks.

5. Learned APP for the State, on instructions, submits that the appellant is not involved in any other case, a status report in this regard has been handed over and the same is taken on record.

6. The appellant is stated to be 34 years of age and is the sole bread earner of his family, which comprises of his wife, a child, two sisters and an aged mother. His conduct in the Jail has been reported to be satisfactory. The appellant has faced trial since the year 2016.

7. Keeping in view of the aforesaid and as per the nominal roll, on record dated 06.09.2025, since the appellant has already undergone about 06



months and 23 days as on 11.04.2017, the substantive sentence of the appellant in the present appeal is modified to the period already undergone by him. The sentence of fine, however, shall remain as it is. The appellant shall pay the fine imposed upon him within a period of two weeks before the Trial Court, if not already paid. The receipt of which be furnished with the I.O. If the appellant fails to deposit the fine, he shall undergo the default sentence.

8. The present appeal is partly allowed and disposed of in the above terms. His bail bonds and surety stand cancelled.

9. A copy of this order be communicated to the Trial Court as well as concerned Jail Superintendent, for information and necessary compliance.

MANOJ KUMAR OHRI, J

SEPTEMBER 15, 2025

na