



2026:DHC:714



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 13th November, 2025

Pronounced on: 29th January, 2026

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CRL.A.1595/2025

STATE OF NCT OF DELHI

.....Petitioner

Through: Mr. Utkarsh, APP for the State with
SI Mohan Lal.

versus

1. BHAGAT

S/o Sh. Narender Dev
R/o Village Kaniyan,
P.S. Kandhia, District Muzaffar Nagar,
Uttar Pradesh.

....Respondent No.1

2. ASHWANI KUMAR @ KAKA

S/o Darshan Kumar,
R/o Flat No. 923, PKT-7,
Sector-A-6, Narela,
Delhi.

....Respondent No.2

3. RAMBIR

S/o Sh. Harji Ram,
R/o E-184, Yadav Nagar,
P.S. S.P. Badli, Delhi.

....Respondent No.3

Through: Mr. Vishesh Wadhwa, Mr. Jatin
Sharma, Mr. Hemant Singh and
Mr. Aditya Singh, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.



1. Criminal Appeal under Section 378(1) of the Code of Criminal Procedure, 193 (*hereinafter referred to as "Cr.P.C."*) has been filed against the Judgment dated 09.11.2020, whereby the learned Additional Sessions Judge has acquitted the **Respondents, namely, Bhagat, Ashwani Kumar @ Kaka, Rambir** under Sections 328/392/397/411/34 Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*) and 25/27/54/59 of the Arms Act, 1959 in FIR No. 0251/2013, P.S. Alipur.

2. The **brief facts** are that the Complainant/Injured, Shatrughan Prasad, used to drive his own **Champion vehicle bearing registration number DL 1LJ 5485** and load copper from *Damodar Park, Shahdara* and unload it at the *Factory at 2057, I-Block, Narela, Delhi*.

3. On **28.05.2013**, he left his house and got the copper loaded from *Damodar Park*, in his Champion vehicle and was heading towards *Narela*. As he reached near *Nanagali Puna, Lower GT Karnal Road*, a "golden" car which was coming from behind, started blowing the horn, on which he gave a signal to the vehicle to pass. The said golden car after crossing the Champion vehicle of the Complainant, suddenly stopped in front of his vehicle and three boys came out while the driver remained sitting in the golden car.

4. All the three persons were armed with pistols in their hands and they pulled him out of his Champion. The **Accused Rambir** caught hold of his collar, while the **Accused Bhagat Singh** caught hold of his left hand with his one hand and put the pistol on the left side of his chest. The third **Accused, Ashwini** caught hold of his right hand and put the pistol on the right side of his head. They all pushed him in the golden car and made him lie down in the car and they sat on him. The Accused persons forcibly made



him drink *maaza*. After 5 to 7 minutes, he became unconscious and regained his consciousness in the hospital at *Pooth Kalan*.

5. According to the Prosecution, on 28.05.2013 at about **08:21 AM**, a PCR call was received about kidnapping of an *auto wala* by vehicle No. DL 2 CAD 6039 and DD No. 10A was recorded. It was informed by the caller that he had seen 3-4 persons come in the said car. Inspector Sudeep Punia along with Constable Bhagwan Lal reached near *nala, Buddhpur Village*, but he found neither the caller nor the eyewitness present.

6. During investigations, it was found that the kidnapped person was admitted in *Maharishi Valmiki Hospital, Pooth Khurd*. Inspector Sudeep Punia along with Constable Bhagwan Lal, went to the Hospital wherein the Doctor mentioned in the MLC about consumption of some unknown substance. The injured was declared *unfit for statement* and the Doctor informed that the injured had consumed some stupefying substance. There was no external injury on the body of the injured. The MLC was collected by the I.O. In view of the MLC, offence under **Section 365/328 IPC** was registered.

7. During the investigation, the statement of the injured was recorded. The stolen Champion vehicle of the Complainant was recovered on 26.06.2013. The **Accused Rambir was arrested in FIR No. 0184/2013 under Section 332/353/307 IPC and 25/54/59 Arms Act**, in which he made a disclosure statement about his involvement in the present case.

8. On 29.06.2013, the I.O. collected the documents and DD No. 11A P.S. Narela regarding the arrest of co-accused, Ashwini @ Kaka and Bhagat. On 28.07.2013, the I.O. formally arrested the Accused persons, namely, Rambir, Bhagat and Ashwini with the permission of the Court.



9. On 19.07.2013, Accused Hasmuddin was arrested on the disclosure of the other accused persons. On 23.07.2013, he was released for want of any concrete evidence.
10. Accused Rambir got recovered the RC of the vehicle No. DL 8CN 6585 and DL of Priyanka. Accused Bhagat got recovered original RC of DL 1LJ 5485, Certificate of Fitness, Cylinder Test Report and Insurance Papers from his residence.
11. The site plan of the place of recovery was prepared and Section 411 IPC was added.
12. The investigations were completed after which the **Chargesheet** was filed under Sections 328/392/394/397/411/34 IPC and 25/27/54/59 Arms Act, in the Court of learned MM. After the FSL result was obtained and the permission under Section 39 Arms Act was given, the **supplementary Chargesheet** was filed.
13. The **charges under Sections 365/328/394/34 IPC** were framed against the accused Bhagat, Ashwini Kumar @ Kaka and Rambir. An additional charge of Section 394 read with Section 397 was framed against the Accused Rambir, to which they all pleaded not guilty.
14. The Prosecution in support of its case, **examined 24 witnesses** in total.
15. The **Complainant, Shatrughan Prasad** was examined as **PW-1** who proved his Complaint.
16. **PW-2, Ved Prakash** was the owner of the Champion vehicle who had made a call to the PCR at No. 100.
17. **PW-3, Ravinder** was the Supervisor of the factory where the Complainant used to deliver the goods.



18. **PW-6, Deepak Chawla** was the owner of the stolen golden car (Verna car) which was released to him on *superdarinama*, Ex. PW-6/A. The RC of the car and the DL of his daughter Priyanka Chawla were recognized by him and exhibited as PW-6/B and C.
19. **PW-10, Sachin Gupta**, MM, proved the TIP proceedings of the Accused Bhagat, Ashwini Kumar @ Kaka and Rambir as Ex. PW-10/B, C and D.
20. The **PW-12, Insp. Karamvir Singh**, had arrested the accused Rambir in FIR No. 0184/2013 and had recorded the disclosure statement Ex. PW-12/A.
21. The investigations were undertaken by PW-7, HC Jasbir Singh, PW-11 Ct. Ashok, PW-13 Ct. Subhash, PW-16 Ct. Shankar, PW-17 HC Vishnu and the **I.O. PW-23 Inspector Sandeep Punia** had joined the investigation with the IO at different stages of investigation.
22. **PW-24, Dr. Linga Raj Sahoo**, proved the FSL Report, while the MLC of the Complainant was proved by **PW-4 Dr. Hakim Ali Qanoon**, M.B. Hospital, Pooth Khurd, Delhi.
23. The **learned ASJ** considered the entire prosecution evidence with special emphasis on evidence of the Complainant, PW-1 to observe that the Complainant had not seen the car number of the alleged golden Verna, used for committing the offence by the Accused persons. Though he corroborated about the incident of having been administered the *maaza*, but he further stated that he lost consciousness and regained it in the hospital at *Pooth Kalan*. He was unable to give the details of the incident or identify the Accused.



24. Insofar as *recovery of Champion vehicle* was concerned, the testimony of PW-8, SI Satish Kumar Pandey and PW-11, Ct. Ashok and PW-15, HC Manoj Kumar was considered and held that the recovery of the Champion vehicle, was not pursuant to the disclosure statement of any Accused person or at their instance. Mere recovery of Champion vehicle at some unknown place, could not be linked to the Accused persons. Insofar as evidence in regard to the identification of the Accused persons, reference was made to the testimony of PW-1 who had deposed that after about 25 days, he went to P.S. Alipur and had identified the Accused persons. Such identification after 25 days of the alleged incident, was disbelieved.

25. *After appreciation of the entire evidence, it was held that there was no incriminating evidence against the Accused persons, who were given the benefit of doubt and were acquitted.*

26. Aggrieved by the said acquittal of the Respondents, the **State has preferred the present Appeal on the grounds** that the testimony of the Complainant as PW-1, who was the most material witness, has not been appreciated in the correct perspective.

27. The incident of robbery was reported to the PCR on which DD No. 10A was recorded. The subsequent admission of injured in the hospital, corroborated the contents of DD No.10A about a person having been kidnapped. The testimony of Complainant was fully supported by the Police officials. There were no material contradictions in the testimony of the Complainant or the other Police witnesses. PW-2, Ved Prakash had proved that the Number plates of his Accent car bearing No. DL 2CAD 6039 had been stolen from outside his house, on 26.05.2013 which had been



subsequently used by the Accused persons, on the vehicle used at the time of incident.

28. PW-6, Deepak Chawla had duly proved that this car had been stolen from the possession of his driver Rinku, in respect of which FIR No. 215/2013 under Section 392 IPC had been registered. The documents of the vehicle were subsequently recovered, at the instance of Accused Rambir.

29. The recovery of the documents of vehicle bearing No. DL 1LJ 5485, i.e. Champion vehicle was recovered at the instance of accused Bhagat which has again not been considered.

30. The identification by the Complainant of the Accused persons, was done in the Police Station since the Accused had refused to get their TIP done. All three Accused had refused to join the judicial TIP and were subsequently identified by the Complainant in the Police Station. He, in his testimony, duly identified the Respondents.

31. PW-24, Dr. Linga Raj Sahoo had proved that the gastric lavage of the Complainant was found containing Lorazepam, which corroborates the statement of the Complainant of being compelled to drink stupefying *maaza*.

32. The oral and documentary evidence as adduced by the Prosecution, proved the case beyond reasonable doubt. The Respondents have been wrongly acquitted.

33. *The prayer is, therefore, made that the judgment of acquittal dated 09.11.2020 be set aside and the Respondents be convicted and sentenced.*

Submissions heard and record perused.

34. The Respondents had been charged for the offence under **Section 365/34 IPC** for having kidnapped the Complainant/Shatrughan and administering him with some stupefying substance and thereby committing



offence under **Section 328/34 IPC**. While committing robbery of the Tempo Champion and his purse containing Rs.5,200/- and other documents, they had caused hurt to him and thereby committed offence under **Section 392/34 IPC**.

35. **The first aspect for consideration is regarding the vehicles involved in the commission of the alleged offence.**

36. The first star witness of the Prosecution was **PW-1, Shatrughan Prasad**, who had deposed that on the date of incident i.e. 28.05.2013, after getting his Tempo Champion loaded with the copper from *Damodar Park, Shahdara*, he was enroute to deliver the goods at *Narela*. At about 07:00 PM while he was driving the Champion, he was waylaid by a golden vehicle from which three persons came out and at the gunpoint abducted him and put him on the floor of the car. They administered stupefying substance *maaza* to him because of which he became unconscious. On gaining re-consciousness, he found himself at hospital at *Pooth Kalan*.

37. Though, the witness was cross-examined but nothing contradictory emerged in his cross-examination.

38. Pertinently, some *third person*, who was a witness to the incident of abduction, was a witness to the incident and called the PCR on which DD No. 10A, Ex.PW-9/A, was recorded by PW-9, Head Constable, Shivendra Pal. The said DD recorded that the Wireless Operation came to the Duty Officer Room and informed that one vehicle No. DL 2CAD 6039 has kidnapped the *autowala* near a *Nala, Budhpur Gaon*, ahead of *Alipur*.

39. The testimony of the Complainant that he was kidnapped, is thus confirmed from the immediate information that was conveyed and recorded at about 08:21 AM on 28.05.2013. Though the informant could not be



traced, but the number of the Car in which the kidnappers were travelling, got confirmed.

40. **PW-6, Deepak Chawla**, owner of this vehicle DL 8CN 6585, which was used by the offenders, deposed that in the evening hours of 11.05.2013, his nephew, Gaurav had borrowed his Verna vehicle for some urgent work. On 12.05.2013, he was informed that the vehicle has been robbed from the possession of his driver. FIR No. 215/2013 under Section 392 IPC was registered at P.S. Alipur.

41. PW-6 further deposed that he got information from the Police that his car has been recovered. He along with his nephew, Gaurav went to the Police Station Alipur where they found the car standing from which the RC and the DL of his daughter, Priyanka Chawla, was recovered. He got the vehicle released on *superdari*.

42. While PW-6, the owner of Verna car, had identified the Car in the Police Station where it was parked after recovery, but there is no evidence whatsoever of how and from where this Verna car was recovered. The Charge-Sheet is absolutely silent in this regard and even PW-23, Inspector Sudeep Punia, the Investigating Officer has not deposed a word about the recovery of this Verna Car.

43. In this context, it may be pertinent to refer to testimony of **PW-2, Ved Prakash**, who had deposed that on 26.05.2013 while his vehicle DL 2CAD 6039 was parked outside, in the morning, he found the number plates of the vehicle stolen, about which he had made a PCR Call.

44. What thus, emerges is that the golden vehicle used in the commission of the offence, had the actual number of DL 8CN 6585, but at the time of commission of the offence, the number plate No. DL 2C AD 6039 was



installed, which were stolen from another vehicle. The DD No.10A gave the number as 6039.

45. There is again a huge lacuna as to how the Verna car has been traced as the offending vehicle, when it had the stolen number plates. The involvement of this Verna car, which is claimed to be the offending vehicle, has not been explained in the entire Prosecution story. All that has emerged, is that one car, in which the four offenders were present, had been used by them for committing the offence of abduction.

46. **The next aspect of relevance is the identification and arrest of the accused persons.**

47. **PW-23, Inspector Sudeep Punia** has deposed that on 28.06.2013, he received information from the P.S. Kundli that they have arrested one person **Rambir in FIR No. 184/2013 P.S. Kundli** wherein he had made a disclosure about his involvement in the present case. The Investigating Officer formally arrested Rambir, in the present Case.

48. Further, PW-23 has deposed that on 29.06.2013, he received information from SI Mahabir Singh of P.S. Narela, regarding the arrest of **Accused, Bhagat Singh and Ashwani Kumar @ Kaka in FIR No. 424/2013** wherein they both made a disclosure about their involvement in the present case. These two accused were also formally arrested in the present FIR.

49. *The question which thus, confronts the Prosecution, is to establish the identity of these three Accused.* Pertinently, the Application for getting the TIP proceedings conducted of the three accused persons, who were produced in the court in muffled face, but they all refused to participate in the TIP proceedings. Thereafter, as per the testimony of I.O., the three



Accused were identified by the Complainant in the Police Station on 23.07.2013. The I.O. explained in his cross-examination that he got the three accused identified from the Complainant in the Police Station, as the three accused had refused to get their TIP conducted.

50. In this context, it would be relevant to note that the alleged incident had happened on 28.05.2013 at about 07:30 PM, while their identification was done in the Police Station on 23.07.2013 i.e. after nearly two months. The Complainant had also not given any description of the accused persons. It is difficult to comprehend how he was able to identify them after about two months and that too in the Police Station. *The identification of the three accused by the Complainant is, therefore, not beyond suspicion.*

51. **The next significant aspect is the alleged recoveries made from the three Accused.**

52. **PW-23, Inspector Sudeep Punia** had deposed that during the police custody remand, Accused Bhagat had led the police team to the house of Sunil Kumar, *Tika Ram Colony, Kundli* and from Room No. 10, he got recovered the RC of vehicle bearing No. DL 1LJ 5485 i.e. the Champion (which was being driven by the Complainant), Fitness Certificate, Cylinder Test Report and insurance, which was seized *vide* Memo Exhibit PW-16/D1.

53. Some glaring aspects emerge; **firstly**, the recovery is from the house of Sunil Kumar and not from the house of Accused Bhagat. **Secondly**, the recovery from the house of Sunil Kumar, at the instance of Accused Bhagat, may impute his knowledge about the documents being in the house of Sunil Kumar, but it cannot be held beyond reasonable doubt that the said documents were in his possession or that were recovered from his possession. *It has not been explained as to who this Sunil Kumar was and*



what connection he had with Bhagat Singh and why were the documents in the house of Sunil Kumar instead of Bhagat Singh.

54. It is also worth mentioning that while the vehicle Champion had been recovered abandoned by SI Satish, P.S. Alipur on 02.06.2013, is not explained as to how the documents came in the possession of Accused Bhagat. Moreover, it is highly unlikely that while abandoning the Champion vehicle, the documents would be conveniently taken out to show them as recovered at the behest of Accused Bhagat. The documents have no monetary value and the recovery so shown to have been made by Bhagat Singh, leads to only one inference that these documents have been planted only to establish some incriminating evidence against the Accused Bhagat. The alleged recovery of the documents of Champion vehicle at the instance of Accused Bhagat, is highly improbable and lacks complete prudence. *The recovery cannot be held to have been proved beyond reasonable doubt.*

55. Likewise, PW-23, Inspector Sudeep Punia, while Accused Rambir was on police remand, pursuant to his disclosure, took him to *Sighu Village* near water tank and he got recovered the documents pertaining to Vehicle No. DL 8CN 6585 i.e. RC, Driving License in the name of Priyanka, which was seized *vide* Memo Ex.PW-16/C.

56. Again, it is in comprehensible as to why innocuous documents like RC and DL, would be stolen by the Accused or by hidden by him in a Water Tank in *Sighu Village*, especially when such documents have no monetary value. *As noted above, it is evident that the recovery of documents has been planted, only to collect some incriminating evidence against Rambir so as to link him with the present offence.*

57. There is admittedly no recovery from the Accused Ashwani.



58. Aside from this alleged recovery of documents from Rambir and Bhagat, which is held to be not genuine, there is not an iota of evidence against any of the three Accused.

59. The last aspect is the inconsistency in the testimony of PW-1/Complainant and PW-23/Inspector Sudeep Punia.

60. The learned ASJ has rightly referred to the testimony of PW-1/Complainant, who deposed on 13.10.2014 that after regaining consciousness in the hospital, he went back to the factory where police officials met him and took him to P.S. Alipur. Such conduct of PW-1 is inherently improbable. A person who has just regained consciousness after being kidnapped and administered a stupefying substance, would naturally return to his home to inform his family about his well-being and safety, rather than proceed directly to the factory. No explanation has been offered for this unusual conduct.

61. Furthermore, the Complainant deposed that he had left the hospital without intimating the doctors or police officials, which is corroborated by the endorsement on MLC, Ex.PW-4/A. It defies logic that a victim who had suffered the trauma of kidnapping and forcible administration of drugs, would abscond from the hospital without informing the police or seeking their assistance.

62. As per the testimony of PW-23, *Inspector Sudeep Punia*, he went to the house of the Complainant, after two days i.e. on 30.05.2013, when he recorded the Statement of the Complainant. Here also, it is not understandable as to what prevented the Investigating Officer to immediately contact the Complainant on getting information in the hospital that the injured had been admitted in the Hospital. Pertinently, PW-23 had



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deposed that when he reached the hospital, he found the victim in unconscious state of mind. He remained in the Hospital for about two hours and thereafter, left the Hospital at about 12:15 PM. There is no clarity of when the Complainant gained consciousness and when he left the Hospital.

63. As per the endorsement on the MLC, the Complainant had left on the same night i.e. on 28.05.2013. There are material contradictions in the manner of conducting the investigations, which does not inspire much confidence. *Definitely, it cannot be said that the case of the Prosecution, has been proved beyond reasonable doubt.*

Conclusion:

64. From the aforesaid discussion, it is evident that the Prosecution failed to prove its case against the Accused/Respondents beyond reasonable doubt. The learned ASJ correctly appreciated the lacunae in the evidence and rightly gave the benefit of doubt to the Respondents. There is no infirmity in the impugned Judgment warranting interference by this Court.

65. The Appeal is therefore, **dismissed**. Pending Application(s), if any, are disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 29, 2026

N/RS