

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No(s). 567 OF 2010

STATE OF HARYANA

Appellant(s)

VERSUS

SUNDER PAL AND ORS.

Respondent(s)

J U D G M E N T

BANUMATHI, J.:

(1) Being aggrieved by the acquittal of the respondents-accused under Section 364-A I.P.C., State of Haryana has preferred this appeal.

(2) Case of the prosecution is that Complainant-Amit Kumar son of Madan Mohan aged nine years was kidnapped on 29.05.1996 at around 01.30 pm when he went out to play. On 02.06.1996, accused-Yashpal came to Madan Mohan and demanded ransom amount of Rs.10,00,000/-. Madan Mohan, Sanjay Jain and Fakir Chand decided not to report the matter to police and arranged a sum of Rs.3,50,000/- in the denomination of Rs.500/-, Rs.100/- and Rs.50/-. First and the last note of the bundles were initialed by Madan Mohan as 'MM'. On 03.06.1996, the currency of the Rs.10,00,000/- was handed over to Yashpal and on 04.06.1996, Yashpal brought back Amit Kumar and he was handed over to Madan Mohan. After enquiring from Amit Kumar (the victim boy) that

he was accosted by Virender and thereafter he was taken by accused Vinod and Sohan in their motorcycle to Railway Station Sona Arjunpur where there were other accused namely Pawan, Pappu, Jagbir, Sunder Pal and Vikas. After the case was registered, the police carried out a raid and the accused were apprehended and the cash was recovered from them under the seizure memo.

(3) Upon consideration of the evidence, the Trial Court convicted all the accused except Virender (who was not traceable) under Section 364-A I.P.C. and sentenced them to undergo rigorous imprisonment for life. In the appeal preferred before the High Court, accused - Vikas @ Vicky, Yashpal, Vidya Sagar, Vishav Pal, Pawan Kumar, Sundar Pal and Jagbir Singh were acquitted of all the charges by the High Court. However, the High Court affirmed the conviction of the accused - Vinod and Sohan and also maintained the sentence of imprisonment imposed upon them.

(4) We have heard Mr. Alok Sangwan, learned Additional Advocate General appearing for the appellant-State. M/s. Nidhi and J.P. Singh, learned counsel appearing for the respondents and also perused the impugned judgment and the evidence and materials on record.

(5) The main witness in the case is of Amit Kumar (PW-2), who was the kidnapped boy, and in his evidence he has stated that he was forcibly taken by the accused-Vinod, Sohan and Virender

(still absconding) and they made him to sit on the motorcycle and then he was taken to Sona Arjunpur Railway Station. Amit Kumar (PW-2) further stated that he was subsequently taken to a garden near to the said railway station where the other accused - Pawan, Pappu, Jagbir, Sunder Pal and Vikas were playing cards. From the evidence of Amit Kumar (PW-2), the High Court held that the overt act is only attributed to Virender, Vinod and Sohan who took Amit Kumar (PW-2) on the motorcycle. So far as other accused, as stated above, are concerned they were only found playing cards near the Sona Arjunpur Railway Station and there was no evidence forthcoming against them as to their role in the kidnapping of Amit Kumar (PW-2) or that they were part of the conspiracy to Kidnap Amit Kumar (PW-2). The High Court observed that apart from the evidence of Amit Kumar (PW-2) that the above named accused were found playing cards near to the Sona Arjunpur Railway Station from where Amit Kumar (PW-2) was taken, there was no evidence against the said accused. The High Court held that the prosecution against the above named accused has not been established beyond reasonable doubt. When the view taken by the High Court is a plausible view and cannot be said to be suffering from any serious infirmity, we do not find any ground warranting interference with the impugned judgment.

(6) Learned counsel appearing for the respondents-accused have stated that accused - Sunder Pal, Vidya Sagar and Yashpal have passed away after the filing of this petition. Learned counsel

for the State, Mr. Alok Sangwan submitted that he would verify the same.

(7) We, however, considered the matter on merits, we do not find any good ground warranting interference in the impugned judgment. In the result, the appeal is dismissed.

.....J.
(R. BANUMATHI)

.....J.
(INDIRA BANERJEE)

NEW DELHI,
OCTOBER 31, 2018.