
(2011) 12 DEL CK 0443

In the Delhi High Court

Case No : Criminal Rev. P. No. 46 of 2011 and Criminal M.A. No. 1022 of 2011

Munna Khan and Another

APPELLANT

Vs

State NCT of Delhi

RESPONDENT

Date of Decision : 07-12-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164, 363

Citation : (2012) 2 JCC 836

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Haneef Ahmad, for the Appellant; Rajdipa Behura, APP for the State with Insp. Satvir Singh, PS Dabri Complainant in Person, for the Respondent

Final Decision : Disposed Off

Judgement

Suresh Kait, J.—Ld. counsel for the petitioner submits, in the instant case the FIR No.613 dated 26.08.2005 u/s 363 has been registered at PS Dabri, Delhi on the statement of the father of the prosecutrix. Thereafter on 24.09.2005 statement of the prosecutrix was recorded wherein she has stated that she was studying in 12th class. She was having light friendship with Suman Khan for the last about 6 months. They decided to leave Delhi on 25.08.2005. Shri Sirajul and Bappi Sarkar came to see them off at Sarai Rohilla Station. They got down at Patna. From Patna they went to Asan Sol, and from Asan Sol to Shivri. At Shivri they stayed from 29.08.2005 to 31.08.2005. During that period Munna Khan and Shamim (Kajol) came to meet them and Munna Khan gave her an amount of Rs.1,000/-. Thereafter, they both left Shivri and came to Darjelling. From there after about 5/6 days they came to Siliguri. During their stay in Arora Hotel in Shivri, they had a talk over telephone with Suman and Deep Punjwani and informed them that they were staying there. This was in the knowledge of Munna Khan, Shamim, Deep Punjwani, and they had been sending them to different places, whereas they were interested in living together.

2. It was also stated in the aforesaid statement u/s 164 Cr.PC that they both

were interested for marriage, therefore, they were interested in living together.

3. The allegation against the petitioners is that he firstly paid Rs.1000/- to her (not to Suman Khan who alleged to have kidnapped her). Petitioner just helped them, as per the allegation.

4. As per the school leaving certificate, the date of birth of the prosecutrix is 17.01.1988. Therefore, she was 17 years 7 months and 8 days.

5. Ld. Counsel for the petitioner further submits, four accused persons, namely, Buppy Sarkar, Jahangir Alam, Sirajul Haque and Deep Punjwani have already been discharged by the Trial Court who had similar role as of the petitioners.

6. Ld. APP, on the other hand, submits that the prosecutrix was kidnapped on 25.08.2005 by one Suman Khan. It is recorded that she on 25.08.2005 went along with Suman Khan to the Sarai Rohilla Station. She was friendly with him for the last about 6 months. From there they went to Ghaziabad. Suman had consumed high power tablet. He had, thought of going earlier, had a quarrel with some one. Sirajul and his friend as well as Bappi Sarkar went to see off them up to Ghaziabad. Sirajul had left them up to Sarai Rohilla Railway Station and Bappi Sarkar had left them up to Ghaziabad. From there they went to Patna by train. Suman telephoned at his residence from Patna. His Mama Shamim @ Kajol had informed Suman that the police is after him. From there they went to Asan Sol. On telephoning from Asan Sol, Shamim refused to come to the residence. From there they went to Shivri, where they stayed in Arora Hotel Lodge. There Shamim, Munna Khan and Jahangir came to meet them. Then Munna Khan gave her an amount of Rs.1,000/- and asked them to leave the place. In the night of 31.08.2005 they gave a ring to Deep Panjwani. Since they were short of money, they gave a miss call, and thereafter he telephoned them and obtained a new number of Shivri. First Suman talked with them and then Deep Panjwani gave a ring to his father, and thereafter he talked to her. He made her understood that she should state in the court that she had come alone and also made her known about the way, which had already been informed by Suman.

7. Admittedly, as per her school leaving certificate the prosecutrix was born on 17.01.1988. Therefore, she was 17 years, 7 months and 8 days of age on the date of alleged incident. It is also not disputed that she had love affair with Suman Khan. She went with him as per her own wishes. The petitioners allegedly met them and helped her by giving Rs.1,000/-. There is no other allegation against the petitioners.

8. Ld. APP, on the other hand, submits that the petitioner had helped them. They concealed the fact that the prosecutrix was under the age of 18 years and wrongfully confined her and abetted in kidnapping or abducting her.

9. It is not in dispute that that four other accused persons have already been discharged. In other sense, their role was similar as of the petitioner.

10. After going through the statement of the prosecutrix u/s 164 of CrPC,

wherein the prosecutrix had deposed that Munna Khan gave her an amount of Rs.1,000/- and see them off from Patna. The other accused also see them off from Sarai Rohilla Station and from Ghaziabad, have already been discharged. Therefore, no case is made out against the petitioners.

11. In view of the above, I set aside the order dated 12.11.2010 qua the petitioners only. Consequently, petitioners are discharged from all the charges.

12. Accordingly, Cr. Rev.P.No. 46/2011 is allowed. Consequently, Crl. M.A. No. 1022/2011 is disposed of.

13. No order as to costs.