

(2009) 01 DEL CK 0285
In the Delhi High Court
Case No : Criminal A No. 887 of 2005

Raj Kumar @ Pappu

APPELLANT

Vs

The State (Govt. of NCT) Delhi

RESPONDENT

Date of Decision : 09-01-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313, 374
Penal Code, 1860 (IPC) — Section 302, 34, 359, 362, 364A

Citation : (2009) 01 DEL CK 0285

Hon'ble Judges : G.S. Sistani, J; B.N. Chaturvedi, J

Bench : Division Bench

Advocate : Manoj Sharma, for the Appellant; Richa Kapoor, APP, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Sistani, J.—The present appeal has been filed u/s 374 of the Code of Criminal Procedure, 1973 (hereinafter, "CrPC") against the Judgment dated 20.07.2005 and the Order of Sentence dated 21.07.2005, passed by the learned Additional Sessions Judge, Delhi, in Sessions Case No. 113/01, FIR No. 353/2000 of Police Station Kalyanpuri, Delhi. The accused was charged u/s 364A read with Section 34 of the Indian Penal Code, 1860 (hereinafter, "IPC") and post trial, was found to be guilty of the said offence and was thus sentenced to undergo Rigorous Imprisonment for Life and to pay a fine of Rs. 1,000/-, in default of the payment of fine, the appellant was to undergo a further Rigorous Imprisonment for a period of six months.

2. The brief facts of the case as noticed by the learned Additional Sessions Judge in the judgment under challenge are as under.

3. On 17.10.2000, Arun Kumar lodged a complaint with the police that on 07.10.2000, Anand Pratap Singh @ Bablu and Rudra Pratap Singh @ Arvind Kumar (related as uncle and nephew), left their respective houses without leaving behind any intimation. Attempts were made by their family members to

search them but they could not be traced. On 16.10.2000, at about 9.00 am, a missing report regarding Anand Pratap Singh and Rudra Pratap Singh, was lodged by Arun Kumar (brother of Anand Pratap Singh) at the Police Station of Kalyanpuri, Delhi. On the same day at about 2 p.m., Arun Kumar received a registered letter purported to have been sent by Ram Rattan Singh Gujjar, Dasyuraj Samrat, Village Badanpur, Police Station Sahso, District Etawah. The said letter disclosed about the abduction of Anand Pratap Singh @ Bablu. Similar letter with respect to abduction of Rudra Pratap Singh was received by Bhanu Pratap Singh (brother of Rudra Pratap Singh) on the same day. Ransom amount of Rs. 6,51,000/- and Rs. 2,51,000/- respectively, was demanded for the release of the two said abducted persons.

4. SI, Kishore Pandey, PW-7, had investigated this case. PW-7 deposed that in the month of November, 2000, he formed a police party and went to Etawah at the address mentioned in the letter of Ram Rattan Singh Gujjar and that he and his police party had tried to trace out the said abducted persons, but of no avail.

5. On 29.11.2000, both the victims, Anand Pratap Singh and Rudra Pratap Singh came to the police station themselves and made the following revelations before the police. They stated that the appellant, Raj Kumar @ Pappu was known to Anand Pratap Singh for the last ten years and that they had developed a good friendship. Anand Pratap Singh used to carry on the business of fire alarm system at Malviya Nagar but was not happy with the income that he was generating and he had also discussed this fact with Raj Kumar @ Pappu. About ten/twelve days prior to the Dussehra festival, appellant Raj Kumar @ Pappu, told Anand Pratap Singh that there was a party dealing with the Fire Alarm System at Aligarh. Anand Pratap Singh expressed his desire to meet the party. Thereafter, appellant Raj Kumar asked Anand Pratap Singh to be ready to meet them at Aligarh on 07.10.2000. Rudra Pratap Singh, nephew of Anand Pratap Singh, was unemployed during those days and when Anand Pratap Singh disclosed the fact that there was a meeting with a party at Aligarh, to Rudra Pratap Singh, he also agreed to accompany him, as he thought that he might get a job there.

6. On 7.10.2000 the appellant came to Anand Pratap Singh and then these three persons, i.e., the appellant Raj Kumar @ Pappu; Anand Pratap Singh; and Rudra Pratap Singh went to Shahdra Railway Station in a bus. After that they boarded the EMU train, arrived at Ghaziabad and from there they took the Gomti Express at 3.05 p.m. for going to Aligarh and arrived at Aligarh at about 5/5.30 pm. When they came out of Aligarh Station, the appellant separated himself from them. After sometime, the appellant along with five other persons arrived there in a Tata Sumo. Thereafter they proceeded towards Etawah and at about 10.30 pm, they stopped the vehicle. The appellant and the abovesaid five persons handed over both Anand Pratap Singh and Rudra Pratap Singh to 10-12 persons, who were wearing police uniform and were equipped with guns. The appellant, Raj Kumar @ Pappu and five other persons thereafter left. Both the victims were

made to travel on foot upto a distance of 18-20 Kms. in the jungle and were told that they had been abducted and that Ram Rattan Singh Gujjar was their leader. The victims were asked to write ransom letters demanding a sum of Rs. 6,51,000/- and Rs. 2,51,000/- respectively.

7. On 27.11.2000, Ram Rattan Singh Gujjar and his companions took a large number of drinks and then under the influence of intoxication, all of them slept. Both the victims chose a moment and slipped away, escaped by catching a truck and arrived at Etawah. From Etawah, they boarded a train to Delhi.

8. On 5.5.2001, the appellant was arrested by Rajesh Kumar, SI. It may be mentioned here that both the ransom letters have been purported to be written on the letter pad of Ram Rattan Singh Gujjar. The following address in Hindi appears on the head of the letter pad.

DASYURAJ

Ram Rattan Singh Gurjar Village Bandanpura

PS Sahso

Distt. Etawah UP-M.P.

9. Accused Ram Rattan Singh Gujjar could not be traced and was declared a proclaimed offender. Search was effected in respect of the accused Kailash and Rajbir, whose names were disclosed by accused Raj Kumar @ Pappu but they too, could not be traced. Raj Kumar @ Pappu was arrested and booked for the offence u/s 364-A, IPC. The statement of the accused appellant was recorded u/s 313 of the Code of Criminal Procedure (hereinafter, "CrPC").

10. In this case, the prosecution has examined ten witnesses and one witness has been adduced from the side of the defence. It would be useful, at this stage, to analyse the evidence of some of the material witnesses and refer to them in detail.

11. Anand Pratap Singh who is PW-1, is also one of the victims. PW-1 has deposed that he knew the appellant, Raj Kumar for about 7-8 years prior to the date of the incident and that the appellant was residing at Noida in a jhuggi. PW-1 stated that he used to visit a betel shop situated at Sector 8, Noida, and there he came into the contact of appellant and developed friendship with Raj Kumar @ Pappu. PW-1 further stated that at the request of the appellant, he arranged a rented accommodation for him at 1/20, Trilokpuri. The appellant resided there with his family for two to three years and thereafter left the said address but continued to visit PW-1's house.

12. PW-1 further deposed that he was unhappy with the income that he was getting at Fire Works System, at which place he was working and that he had asked the appellant to search a better job for him. PW-1 stated that about two to three days prior to the Dusshera Festival, the appellant approached him with an offer to meet a party at Aligarh on 7.10.2000. On the above mentioned date

PW-1 along with his jobless nephew (Rudra Pratap Singh), and the appellant went to Aligarh. PW-1 further testified that at Aligarh the appellant left them for sometime at the pretext of making a phone call and when he returned he was in a vehicle, Sumo, accompanied by five other persons. PW-1 then stated that those five persons put a tamancha (katta) on his temporal region and he was ordered to sit inside the vehicle. And that his nephew was slapped by the appellant and was asked to sit inside the vehicle. Thereafter the said five persons and the appellant put a bandage on their eyes and drove off for three to four hours. When the vehicle was stopped both PW- 1 and his nephew were asked to follow ten to twelve persons who were standing there, wearing police uniforms and had guns with them. PW-1 further stated that while they were following those ten to twelve persons inside the jungle, the appellant and his five associates separated themselves and disappeared. Thereafter PW-1 and his nephew were told that they had been abducted and that Ram Rattan Singh Gujjar was their leader. PW-1 also deposed that they were beaten up; were made to carry the goods and baggage of those men as they used to shift places frequently; were kept in fetters during the nights; and were eventually asked to write ransom letters to their respective families by Ram Rattan Singh Gujjar. PW-1 further stated that, however, on 27.11.2000, the dacoits were celebrating something and consumed a lot of alcohol, they got so intoxicated that they forgot to put PW-1 and his nephew in fetters and then the two ran away. They kept running the entire night through the jungle, and when they reached a road they took lift from a truck and reached Etawah. From there they boarded a train and reached Delhi at about 10:30 p.m. on 28.11.2000.

13. PW-1 then deposed that on 29.11.2000, he along with his nephew and other family members went to the Police Station of Kalyanpuri and narrated the entire incident to the police officials. PW-1 further deposed that on 5.5.2001, he along with his nephew and another person Mukesh were standing at the bus stand of Mother Dairy when they spotted Raj Kumar inside the bus of route No. 118, coming from the side of Laxmi Nagar. They brought down the appellant, Raj Kumar from the said bus and took him to the Police Station.

14. PW-1 deposed that Ram Rattan Singh Gujjar wrote a letter on his letter pad "Dasuraj. and that he was made to write on the back side of the said letter regarding demand of ransom. He proved the letter Ex. P-1 and testified that its portion Ex.P-2 is in his hand writing and bears his signature at point A. He deposed that the letter Ex.P-1 was written by Ram Rattan Singh Gujjar himself.

15. Rudra Pratap Singh who is the nephew of PW-1 and is also PW-2, has supported the entire version of the prosecution's case. PW-2 also stated that the said dacoit wrote the letter Ex. PW2/A and on its back the contents which are marked as Ex. PW2/B are in his hand writing. PW-2 also proved his signature thereon.

16. Arun Kumar, PW3 (brother of Anand Pratap Singh), has supported the prosecution story. He also proved the letter from Dasuraj that was received by

him and has identified the writing and the signature of PW-1 on it. PW3 has also proved the complaint made by him as Ex. PW 3/A.

17. Shashi Pratap Singh, PW-4, is the elder brother of Rudra Pratap Singh. He also received the letter, Ex. PW 2/A, and identified the writing of his brother on its back as Ex. PW 2/B.

18. Shri Gian Srisvastav, PW-9, was posted as a Postal Assistant in Head Post Office, Etawah. He deposed that the envelope, Ex. PW 9/A was received in their office for booking, and that it was addressed to Bhanu Pratap Singh, Trilokpuri, Delhi. PW-9 deposed that after making an entry in their office at Etawah, RMS for delivering it to the addressee, the same was dispatched.

19. Rest of the witnesses produced by the prosecution are police witnesses. HC, Prem Kumar, PW-5, deposed to have recorded the statement of Gian Srivastava. HC, Shyam Singh, PW-6, took a rukka to the Police Station and got this case registered. Shalinder Singh, PW-8 assisted the I.O. during investigation of this case. SI, Kishore Pandey, PW-7, and Rajesh Kumar, PW-10, had investigated this case.

20. In his statement recorded u/s 313 CrPC, the appellant, Raj Kumar @ Pappu admitted that he was a friend of Anand Pratap Singh. The appellant stated that Anand Pratap and Rudra Pratap came to him to enquire about the address of Rajbir and Kailash; that he also went with them and that they were released after taking money. The appellant stated that he has been framed in the case.

21. The learned defence counsel had examined Hari Singh, DW- 1, and who is also a friend of the appellant. DW-1 explained that some eight to ten years ago, he was coming back alongwith Raj Kumar @ Pappu when he was accosted by one person whose name he did not recollect. DW-1 testified that that person had threatened him and had taken Raj Kumar to Police Post Dallupura. And he did not know as to what happened thereafter. DW-1 further deposed that after about one and a half years back, when he went to the house of the appellant, Raj Kumar, the wife of the appellant had told him that some unknown person had taken appellant to Police Post about one and half years back. There he came to know that the accused is in jail. In his cross-examination, he explained that the appellant hails from Etawah. DW-1 could not tell as to from where the appellant was arrested. And further could not tell whether the appellant was involved in a kidnapping case or not.

22. It is submitted by learned Counsel for the appellant that the judgment of the Trial Court is based only on surmises and conjectures; is contrary to law. It is also contended that the learned trial court failed to weigh the evidence and probabilities of the case.

23. The learned Counsel for the appellant has submitted before us that it is beyond imagination that a person who is not a man of means and was doing a job on a monthly salary of Rs. 3000/- and was searching for a better job, a huge

sum of Rs. 6,51,000/- and for another jobless person Rs. 2,51,000/- would be demanded for their release. The learned Counsel submits that on the one hand as per the prosecution the appellant was asked by PW-1 that his income was not sufficient to run his family, so he wanted some other job and he requested the appellant to search for another job for him and on the other hand the prosecution claims that the appellant had a hand in the kidnapping of PW-1 & 2 for ransom. The counsel argued that it is beyond imagination that a person who knows the family background and financial position of a particular person would help in getting such person kidnapped for a huge sum of ransom.

24. The learned Counsel also submitted that the depositions of the two prime witnesses, who are also the victims, Anand Pratap Singh (PW-1) and Rudra Pratap Singh (PW-2), are a thicket of contradictions. The learned Counsel argued that the Trial Court erred in believing the depositions of the prosecution witnesses which are self-contradictory. And that the statement of PW-1 is full of material contradictions which go to the root of the matter and creates a doubt whether the appellant had a hand in the commission of the alleged crime or not.

25. Learned Counsel for the appellant has also submitted that the place where PW-1 and PW-2 were forced to sit in a Tata Sumo, was not a lonely place. It is, thus, unnatural that they did not raise any alarm to attract the attention of the people around. The same being an unnatural conduct on their part creates a doubt whether anything as alleged has happened or not.

26. Also according to the learned Counsel for the appellant there was no occasion for PW-3 to lodge a missing person report in the light of the version of PW-1 that he had informed his mother about going to Aligarh.

27. The learned Counsel also argued that there is no evidence that Ex. P-1 and Ex. PW-2A, were written by the same person. And moreover no report regarding the same has been obtained from the CFSL.

28. Further it is the case of learned Counsel for the appellant that there is not a single eye-witness to support the story of the prosecution even though there were many occasions for the investigating officer to join public witnesses, in order to give credence and corroboration to the prosecution story. And that the witnesses produced by the prosecution are either interested witnesses or police witnesses.

29. The learned Counsel further argued that the prosecution has failed to prove its case beyond reasonable doubt and the appellant is entitled to benefit of doubt. The counsel submitted that the Trial Court erred in not believing the defence put up by the appellant and not reaching to the conclusion that the appellant is innocent and has been falsely implicated in the case due to ulterior motive. And further that the appellant has already undergone about five years of imprisonment, more over he is suffering from the failure of both the kidneys which requires special medical care and in case proper medical care is not provided to him in time, the life of the appellant would be in danger.

30. Per contra, it is submitted by learned Counsel for the State that the prosecution has proved its case beyond any shadow of doubt.

31. We have heard learned Counsel for the parties as well as carefully scrutinized the record and given our thoughtful consideration to the matter.

32. The arguments of learned Counsel for the appellant can be summarized as under:

(1) The trial court erred in believing the depositions of prosecution witnesses as well as the depositions of PW-1 and PW-2 (victims) which are self-contradictory;

(2) The trial court has relied upon the evidence of the victims which cannot be the basis of conviction;

(3) The story of the prosecution cannot be believed in view of the fact that the place where PW-1 and PW-2 were forced to sit in the Tata Sumo was not a lonely place and they did not raise any hue and cry when a Katta was put on their temporal region.

(4) The appellant had no role to play in the kidnapping.

33. We do not find force in the argument of the learned Counsel for the appellant that the trial court has erred in believing the depositions of the prosecution witnesses as well as the evidence of PW-1 and PW-2.

34. The evidence of PW-1 and PW-2 has not been shaken in the cross-examination and we find the same trustworthy. The Trial Court has correctly relied upon the decisions of the Supreme Court in the case of State of Punjab Vs. Wassan Singh and Others, wherein it was held that "[w]here the witnesses are examined at the trial 17 months after the incident such discrepancies in regard to collateral and subsidiary facts or matters of details occur even in the statements of truthful witnesses, particularly when they are examined to depose to events which happened long before their examination. Such discrepancies are hardly a ground to reject the evidence of the witnesses when there is general agreement and consistency in regard to the substratum of the prosecution case." Further in the case of Appabhai and Another Vs. State of Gujarat, , the Apex Court has observed that "the errors due to the lapse of memory may be given due allowance." Similar view was also taken in the case of State of Haryana Vs. S.M. Sharma and others,

35. The Trial Court has rightly analysed that some contradictions are bound to occur on account of the delay in recording of evidence. It may be noticed that the incident had occurred in the year 2000, while the evidence was recorded in the year 2002. We see no infirmity in the finding arrived at by the Trial Court that there were no material contradictions in the evidence of PW-1 and PW-2.

36. No doubt the Court must be slow in passing an order of conviction solely on the basis of the evidence of the victim. The Court must scrutinize the evidence of the victim closely, cautiously and with great circumspection. However, in the

facts of this case, there is nothing to show that the evidence of the victims was not trustworthy or that the case of the prosecution was unreliable. The evidence of PW-1 and PW- 2 is corroborated by the evidence of PW-9, Postal Assistant, Main Post Office, Etawah, who supported that the letters of ransom were in fact posted from Etawah. The deposition of PW-9 is reproduced herein below:

On 14.10.2000 I was posted as Postal Assistant in Head Post Office, Etawah. The enveloped Ex.PW-9/A was received in our office for booking and it was addressed to Bhanu Pratap Singh, Trilokpuri, Delhi. The name of the sender was Anil Kumar. The same was dispatched after making entry in our office in Etawah, R.M.S. for delivering the same to the addressee.

37. There is nothing in the cross-examination as well as in the evidence to show that the victims had not identified their writing on the ransom letters. And we find that the evidence of PW-1 and PW-2 stands corroborated by the evidence of PW-9. Furthermore, in the case of State of Chhattisgarh Vs. Derha, , the Apex Court has held that a person may even be convicted solely on the evidence of victim, if the Court is satisfied by his evidence. Moreover, in this case, there is nothing to show that the evidence of the victims is unreliable.

38. Learned Counsel for the appellant had also strongly urged before this Court that the story of the prosecution cannot be believed in view of the fact that PW-1 and PW-2 were forced to sit in the Tata Sumo from a place which was not a lonely place and inspite of that, they did not raise any hue and cry at that time, especially, when a Katta was put on their temporal region. There can be no strait jacket formula with regard to reactions of an individual. Different persons react differently to different situations. It will be useful to refer to the case of State of Uttar Pradesh Vs. Devendra Singh, relevant portion of which is reproduced below:

6. In view of the rival submissions, it has to be first seen whether the prosecution has established its case. Strictly speaking, the case is not of circumstantial evidence. Human behaviour varies from person to person. Different people behave and react differently in different situations. Human behaviour depends upon the facts and circumstances of each given case. How a person would react and behave in a particular situation can never be predicted. Every person who witnesses a serious crime reacts in his own way. Some are stunned, become speechless and stand rooted to the spot. Some become hysteric and start wailing. Some start shouting for help. Others run away to keep themselves as far removed from the spot as possible. Yet others rush to the rescue of the victim, even going to the extent of counterattacking the assailants. Some may remain tightlipped, overawed either on account of the antecedents of the assailant or threats given by him. Each one reacts in his special way even in similar circumstances, leave alone, the varying nature depending upon a variety of circumstances. There is no set rule of natural reaction. To discard the evidence of a witness on the ground that he did not react in any particular manner is to appreciate evidence in a wholly unrealistic and unimaginative way. (See Rana Partap and Others Vs. State of Haryana,

Further reliance is placed upon the case of Leela Ram (Dead) Through Duli Chand Vs. State of Haryana and Another, wherein it was observed:

11. The Court shall have to bear in mind that different witnesses react differently under different situations: whereas some become speechless, some start wailing while some others run away from the scene and yet there are some who may come forward with courage, conviction and belief that the wrong should be remedied. As a matter of fact it depends upon individuals and individuals. There cannot be any set pattern or uniform rule of human reaction and to discard a piece of evidence on the ground of his reaction not falling within a set pattern is unproductive and a pedantic exercise.

In the light of the above decisions, we are unable to agree with the submissions of learned Counsel for the appellant.

39. Another submission, which was made by learned Counsel for the appellant was that there was no reason for the appellant to kidnap PW-1 and PW-2 as the appellant was already aware about their financial condition. Merely because the victims were keen to look for better avenues by itself would not be a ground to disbelieve the evidence of the victims and the prosecution.

40. Learned Counsel for the appellant has also argued that the appellant had no role to play in the kidnapping of the PW-1 and PW-2, and further the ransom, if demanded, was demanded by Ram Rattan Singh Gujjar, as per the own showing of the prosecution.

41. It is not necessary that the appellant should have been present through out the commission of the offence. In the case of Akhlaq Vs. State of U.P., , it has been held:

section 34 gives statutory recognition to the principle that if two or more persons intentionally do a thing jointly, it is just the same as if each of them had done it individually. When a criminal act is committed [] by several persons in furtherance of the common intention each of such persons is liable. The crucial test as to applicability of constructive liability is found in the phrase "in furtherance of the common intention of all". The criminal act for which all the conspirators are sought to be made liable must be connected with the common intention; that criminal act must be while executing or carrying out the common intention. To apply Section 34 two factors must be established (i) common intention and (ii) participation of the accused in the commission of an offence. If common intention is proved but if no overt act is attributed to the individual accused, Section 34 will be attracted as it involves vicarious liability. It is not possible to have direct evidence of common intention in every matter. It has to be inferred in appropriate cases from the facts and circumstances of each case.

42. To further elaborate upon the position of law with respect to Section 34, it would be useful to refer to Girija Shankar Vs. State of U.P.,

Section 34 has been enacted on the principle of joint liability in the doing of a

criminal act. The Section is only a rule of evidence and does not create a substantive offence. The distinctive feature of the Section is the element of participation in action. The liability of one person for an offence committed by the another in the course of criminal act perpetrated by several persons arises u/s 34 if such criminal act is done in furtherance of a common intention of the persons who join in committing the crime. Direct proof of common intention is seldom available and, therefore, such intention can only be inferred from the circumstances appearing from the proved facts of the case and the proved circumstances. In order to bring home the charge of common intention, the prosecution has to establish by evidence, whether direct or circumstantial, that there was plan or meeting of mind of all the accused persons to commit the offence for which they are charged with the aid of Section 34, be it pre-arranged or on the spur of moment; but it must necessarily be before the commission of the crime. The true concept of Section is that if two or more persons intentionally do an act jointly, the position in law is just the same as if each of them has done it individually by himself. As observed in *Ashok Kumar Vs. State of Punjab*, the existence of a common intention amongst the participants in a crime is the essential element for application of this Section. It is not necessary that the acts of the several persons charged with commission of an offence jointly must be the same or identically similar. The acts may be different in character, but must have been actuated by one and the same common intention in order to attract the provision.

The Section does not say "the common intention of all", nor does it say "an[] intention common to all". Under the provisions of Section 34 the essence of the liability is to be found in the existence of a common intention animating the accused leading to the doing of a criminal act in furtherance of such intention. As a result of the application of principles enunciated in Section 34, when an accused is convicted u/s 302 read with Section 34, in law it means that the accused is liable for the act which caused death of the deceased in the same manner as if it was done by him alone.....As was observed in *Chinta Pulla Reddy and Others Vs. State of Andhra Pradesh*, , Section 34 is applicable even if no injury has been caused by the particular accused himself. For applying Section 34 it is not necessary to show some overt act on the part of the accused.

43. The appellant Raj Kumar @ Pappu has been convicted for committing an offence u/s 364A read with Section 34 of the IPC. Section 364A of the IPC reads as under:

Kidnapping for ransom, etc.- Whoever kidnaps or abducts any person or keeps a person in detention after such kidnapping or abduction and threatens to cause death or hurt to such person, or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt, or causes hurt or death to such person in order to compel the Government or any foreign State or international inter-governmental organization or any other person to do or abstain from doing any act or to pay a ransom, shall be punishable with death, or

imprisonment for life, and shall also be liable to pay.

In the case of *Malleshi Vs. State of Karnataka*, , the Apex Court while deciding a matter pertaining to Section 364-A, IPC has held:

8. The section refers to both "kidnapping" and "abduction". Section 359 defines kidnapping. As per the said provision there are two types of kidnapping i.e.: (1) kidnapping from India; and (2) kidnapping from lawful guardianship.

9. Abduction is defined in Section 362. The provision envisages two types of abduction i.e.: (1) by force or by compulsion; and/or (2) inducement by deceitful means. The object of such compulsion or inducement must be the going of the victim from any place. The case at hand falls in the second category.

10. To "induce" means "to lead into". Deceit according to its plain dictionary meaning signifies anything intended to mislead another. It is a matter of intention and even if promise held out by the accused was fulfilled by him, the question is: whether he was acting in a bona fide manner.

11. The offence of abduction is a continuing offence. This section was amended in 1992 by Act 42 of 1993 with effect from 22-5-1993 and it was subsequently amended in 1995 by Act 24 of 1995 with effect from 26-5-1995. The section provides punishment for kidnapping, abduction or detaining for ransom. 12. To attract the provisions of Section 364-A what is required to be proved is: (1) that the accused kidnapped or abducted the person; (2) kept him under detention after such kidnapping and abduction; and (3) that the kidnapping or abduction was for ransom." Thus Section 364A has the following ingredients:

i. That kidnapping or abduction of a person is caused; or "such kidnapped or abducted person. is kept under detention;

ii. That the accused threatened to cause death or hurt, to "such person. or gave rise to a reasonable apprehension that death or hurt may be caused to "such person., or death or hurt is actually caused;

iii. The above said is done to compel another person to do or abstain from doing any act or to pay a ransom.

44. As far as the role of the appellant is concerned, the victims have stated in their evidence that it was the appellant who by deceit had taken both PW-1 and PW-2 to Aligarh where four to five persons had joined them. The appellant had slapped PW-2 and thereafter left the scene after handing PWs 1 and 2 to another group of 10-12 persons. On the minute analysis of the evidence, it would show that the act committed by the appellant was in furtherance of a common intention. By bringing the victims to Aligarh, the appellant, in fact, had participated in the commission of the offence.

45. Having regard to the facts of this case, it has been established that the appellant and PW-1 were known to each other and the appellant had shown greener pastures to PW- 1 in promising PW-1 better job prospects and thereafter

by deceit took him to Aligarh.

46. Taking into consideration the evidence on record and the reasons as aforestated , we find no infirmity in the Judgment dated 20.07.2005 and the Order of Sentence dated 21.07.2005, passed by the learned Additional Sessions Judge, Delhi, in Sessions Case No. 113/01, FIR No. 353/2000 of Police Station Kalyanpuri, Delhi.

47. The appeal is dismissed.