



IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 2811-2812/2024

HARJINDRA SINGH ETC.

.....APPELLANTS

VERSUS

THE STATE OF U.P.

..... RESPONDENT

J U D G M E N T

PRASANNA B. VARALE, J.

1. The present appeals are being preferred before this Hon'ble Court against the judgment and order dated 05.08.2022 passed by the Hon'ble High Court of Judicature at Allahabad in Criminal Appeal No. 5483 of 2006 (Harjindra Singh Vs. State of U.P.) and in Criminal Appeal No. 5035 of 2006 (Dilbag Singh @ Mitthu Vs. State of U.P.), whereby the High Court was pleased to dismiss the Criminal Appeals filed by the appellants by upholding the judgment & order of conviction passed by Ld. Trial Court. The

appellants are undergoing sentence of life imprisonment awarded by Ld. Additional Session Judge, Court No. 1 District Pilibhit in Sessions Trial No. 790 of 2003 under Sections 364A/368 of IPC.

BRIEF FACTS

2. A first information report was lodged by Kuldeep Singh at police station Puranpur, District Pilibhit on 05.08.2003 at 12.30 p.m. regarding an occurrence alleged to have taken place at 6:30 a.m. that day. According to the report, the first informant's son was going to school along with his sisters on bicycles. Two unknown persons came on a Rajdoot motorcycle and stopped the children at pistol point. They forcibly lifted the first informant's 8 years' old son, Satnam Singh and drove away. On the cries of the sisters, Dr Majid Ali, Arshad Ali and a neighbour Manjit Singh came on the spot and chased the accused on motorbikes, who managed to escape into the jungle via village Lah Muzzafarpur and Bhaipur.

3. During investigation, on 08.08.2003, the police, on the pointing out of accused Dilbag Singh @ Mitthu, recovered the abductee from village Nadia Pouriya (Bhopatpur), Police station Kutar, District Shahjahanpur from a hut like house. The abductee was found in the western room of this house sitting with a woman on a cot. The child, on being questioned stated that he is Satnam

Singh. He also stated that the criminals had detained him in this room and the woman and another man whom the woman referred to as Pappu used to guard him. They had taken off his clothes and had hidden them. The woman disclosed her name as Dalveer Kaur and the name of her associate as Avtar Singh alias Pappu.

4. On being asked for, she produced the clothes of the child. The child also stated that he was asked to play with toys in the room and a swing was also placed there. In the process of investigation, the Investigating Agency recovered clothes (school uniform) from Dalveer Kaur and recovered wooden swings and some toys. The items recovered were sealed and memos prepared. The child was given in the custody of his father, the first informant. On 03.09.2003, a .315 bore country made pistol and two live cartridges were recovered on the pointing out of Harjindra Singh, whose police remand had been obtained. This recovery was from a bush near a pipal tree in the jungle. A recovery memo was duly prepared. The investigation concluded in filing charge sheet against the accused persons namely, Dilbag Singh @ Mitthu, Harjindra Singh, Dalveer Kaur, Jassa Singh, Avtar Singh and Jagtar Singh. A chargesheet under Section 25 of the Arms Act was filed against Harjindra Singh for commission of offences under Sections 364A and 368 IPC.

5. A separate chargesheet under Sections 364A and 368 IPC was filed against Bahaar Ali. Upon committal, the Sessions Judge framed charges under Sections 364A and 368 IPC against the six accused. A charge under Section 25 of the Arms act was additionally framed against Harjindra Singh. The accused denied the charges and claimed trial. PW1, Kuldeep Singh, is the first informant and father of the abductee. He has stated before the Court that the abductee Satnam Singh was aged about 8 years and was a student of class 2 in St. Joseph School Puranpur. He has three sisters, namely Sandeep Kaur, Anudeep Kaur, students of class VIII and Mandeep Kaur, student of class IV, also in St. Joseph's School, Puranpur. On the date of incident at about 6:30 am the children were going to school on their cycles. When they reached Tadola near the house of Hardeep Singh, a Rajdoot motorcycle approached from the front and the children were stopped at pistol point. The motorcycle rider took Satnam off the bicycle, pushed his sister and escaped with the abductee. On a hue and cry being raised by his daughters, Dr Majid Ali, Arshad Ali and Manjit Singh came to the spot and chased the accused on motorcycle. The abductors escaped into the jungle proceeding via Lah Muzzafarnar and Bhaipur. His son was recovered on the pointing out of Dilbag Singh @ Mitthu in the presence of Devender

Singh, Ramgopal and police personnel from the house of Dalveer Kaur situated in village in Bhopatpur, District Shahjahanpur. The house belongs to her brother Pappu @ Avtar Singh. The child was recovered at 5:30 pm and recognised him. Dalveer Kaur was taken into custody. She also handed over the school dress worn by the abductee, which were kept in a trunk. The clothes were sealed along with the toys and swing found on the spot and memo was prepared, on which Dalveer Kaur put her thumb impression and a copy was given to her. The abducted child was thereafter given in his custody.

6. The accused have in their testimony under Section 313 Cr.P.C. stated that they have falsely implicated on account of enmity. However, no reason for any enmity between the appellants and the prosecution witnesses has been offered.

7. Hon'ble High Court of Allahabad did not find any illegality in the order of conviction and sentence granted by Sessions Court awarded to the appellants in these two connected appeals and High Court held that conviction is not based solely about the confessional statement of Dilbag Singh @ Mitthu, the appellant in Criminal Appeal No. 5035 of 2006. Hon'ble High Court upheld the conviction and sentence of both the appellants under Section 364A I.P.C.

8. Therefore both, Criminal Appeal No. 5483 of 2006 and 5035 of 2006 were dismissed. The third Criminal Appeal No. 4735 of 2006 filed on behalf of Dalveer Kaur as noticed, has already abated, on account of her death.

9. Aggrieved by the said judgement of the High Court, the appellant is before us.

CONTENTIONS

10. The counsel for the appellants submitted that the entire prosecution case is based on the evidence of highly interested and partisan witness, P.W.1, who is father of the abductee is not an eye-witness of the alleged incident.

10.1. It was submitted that there was no evidence or findings recorded by the subordinate Courts that any threat was extended by the appellants to cause death or hurt to the victim nor their conduct gave rise to reasonable apprehension that such person may be put to death or hurt.

10.2. It was also contended that neither the learned Additional Session Judge nor the High Court referred to the above essential conditions for conviction under Section 364A. Neither the call for ransom was disclosed to the police at the time of lodging of FIR, nor the allegation of receipt of ransom

call has been substantiated by furnishing details with regard to receiving of such demand of ransom. The prosecution has completely failed to establish the demand for ransom.

10.3. It was also submitted that neither any CDR has been furnished, nor any specific details have been narrated as to who has attended the phone call or who was person on other side demanding ransom. Thus, the evidence regarding demand of ransom have not been correctly evaluated and renders the conviction of the appellants unsustainable.

10.4. It was also contended that as per the statement of PW-4, the victim himself in his statement has stated that he was treated with love and affection. PW-4 in his statement has also not alleged that any threat was extended to cause death or hurt to the victim.

10.5. It was also contended that there is no explanation as to why the mother and sister of the abductee went to jail to meet appellant no.1 and also carried eatables for him, which shows that the appellants have been falsely implicated.

10.6. The counsel for the appellants relied upon the case of ***Shaik Ahmed vs State of Telangana***¹ wherein this Hon'ble Court held in para 13 & 14 that:

“After the first condition the second condition is joined by conjunction "and", thus, 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. The use of conjunction "and" has its purpose and object. Section 364-A uses the word "or" nine times and the whole section contains only one conjunction "and", which joins the first and second condition. Thus, for covering an offence under Section 364-A, apart from fulfilment of first condition, the second condition i.e. "and threatens to cause death or hurt to such person" also needs to be proved in case the case is not covered by subsequent clauses joined by "or"”.

10.7. The counsel for the appellants also relied upon the case of ***Willian Stephen vs The State of Tamil Nadu and Anr.***² Wherein it was held that

“16. The record relating to the call details has been discarded by the High Court as there was no certification under Section 65-B of the Evidence Act. The call records could have been the best possible evidence for the prosecution to prove the threats allegedly administered by the accused and the demand of ransom. Even taking the evidence of PW 1 and PW 3 as correct, all that is proved is that they received a phone call

1 (2021) 9 SCC 59

2 (2024) 5 SCC 258

from someone for demanding ransom and the person threatened to kill their son in case ransom is not paid.”

10.8. The counsel for the appellants also relied upon the case of **Wahid v. State Govt. of NCT of Delhi**³ in which it was held that:

“28. As far as dock identification by the remaining two eyewitnesses is concerned, they identified the accused persons during their deposition in court in the year 2015, that is, after nearly 4 years of the Incident. PW 6, though stated that he identified the accused persons on 6-12-2011 while they were in the police lock-up, admitted that he went to the police station without being summoned. Interestingly, as per his description in the record, he is a resident of Aligarh. During cross-examination, he stated that he visited the police station on 6-12-2011 at 7.30 a.m. Considering that he is a resident of Aligarh, his statement that he visited the police station without summons on 6-12-2011 at 7.30 a.m. does not inspire our confidence.

29. Admittedly, memory of those witnesses was not tested through a test identification parade. In such circumstances, when three eyewitnesses stated that the accused persons were not the ones who committed the crime and another one stated that it was too dark, therefore, he could not recognise, bearing in mind that the accused persons were not known to the

eyewitnesses from before, not much reliance can be placed on the dock identification.”

11. *Per contra*, the counsel for the respondent submitted that the prosecution case is fully supported by PW.1 the complainant, PW.2 and PW.3, the two sisters of the victim child and PW.4 the abducted child. They were subjected to detailed cross-examination by the counsel for the accused persons but the witnesses stood firm and unshaken to the cross-examination, as such the ocular testimony of these witnesses is trustworthy and wholly acceptable.

11.1 The learned counsel further submitted that merely because PW.1 as the father of the victim and PW.2 and PW.3 as sisters of the victim are interested witnesses, is neither acceptable nor sustainable, for the simple reason that they are the natural witnesses and if their ocular testimony is trustworthy, there is no reason to discard their version, stating that they were interested witnesses, as held by this Hon'ble Court in ***State of U.P. v. Naresh***⁴, in which this Hon'ble Court has emphasized that relationship cannot be a factor to affect the credibility of a witness. Para 29 of the judgment is quoted below:

⁴ (2011) 4 SCC 324

“29. The evidence of a witness cannot be discarded solely on the ground of his relationship with the victim of the offence. The plea relating to the relatives' evidence remains without any substance in case the evidence has credence and it can be relied upon. In such a case the defence has to lay foundation if plea of false implication is made and the court has to analyze the evidence of a related witnesses carefully to find out whether it is cogent and credible. (Vide Jarnail Singh Vs. State of Punjab {(2009) 9 SCC 719), Vishnu Vs. State of Rajasthan ((2009) 10 SCC 477) and Balraje Vs. State of Maharashtra {(2011) 4 SCC 262)”

11.2 The counsel for the respondent also submitted that appellants' statement of the demand for ransom not been proved and that the prosecution has not revealed as to how the alleged ransom was demanded, is also untenable. As per the statement of PW.1, after chasing the kidnapper unsuccessfully, he returned back and lodged the FIR at 12.30 pm. He stayed at the police station for over two hours and reached home at 7:00 pm in the evening when his daughters informed him about the ransom call which had been received at 11:00 am, the same day. PW-2 and PW-3 have also stated that a sum of Rs. 5 lacs were demanded as ransom. Even the first Investigating Officer, PW-7, in his oral testimony has stated that he was told by the complainant on 07.08.2003

about the call demanding ransom of Rs. 5 lacs and that in this connection he had also recorded the statement of Santosh Kaur, the mother of the abducted child. As such this contention has no merit.

11.3 The counsel for the respondent also refuted the contentions of the appellants that there is no explanation as to why the mother and the sister of the victim had come to meet him in the jail. In this regard, it is stated by PW-2 during her cross-examination that they had gone to meet Harjindra with a view to inquire as to who actually is behind the kidnapping. It is also worth mentioning here that it has come in the statement of the abducted child that he was not ill-treated during his detention. Therefore, this fact alone is not sufficient to draw adverse inference against the prosecution.

11.4 The counsel for the respondent further contended that the ground raised by appellants that the child had been recovered from the custody of accused Dalveer Kaur and she alone is responsible for this kidnapping, is not tenable. It is relevant to mention here that Harjindra Singh had not been arrested but had surrendered in Court. The firearm used at the time of the incident to threaten the children has been

recovered on his pointing out after obtaining his police remand and the testimony is in consonance with the general diary entries. It is relevant that Harjindra has been identified by the PW-3 in Court as the person who had lifted the abducted boy and placed him on the motorcycle.

11.5 It was further submitted by the respondent that the appellants in their statements under Section 313 Cr.P.C., stated that they have been falsely implicated on account of enmity. However, appellants have failed to disclose the kind of enmity between them and the prosecution witnesses. Therefore, the defence taken by the appellants is not liable to be accepted.

11.6 The counsel for the respondent relied on the case of **Ronny @ Ronald James Alwaris Etc v. State of Maharashtra**⁵ in which it was held that:

“We have already laid down above that the identification of the accused by a witness if he had an opportunity to interact with him or to notice his distinctive features lends assurance to his testimony in court and that the absence of corroborative evidence by way of test identification parade would not be material.”

5 (1998) 3 SCC 625

“It has been laid down that where the witness had a chance to interact with the accused or that in a case where the witness had an opportunity to notice the distinctive features of the accused which lends assurance to his testimony in court, the evidence of identification in court for the first time by such a witness cannot be thrown away merely because no test identification parade was held. In that case, the accused concerned had a talk with the identifying witnesses for about 7/8 minutes. In these circumstances, the conviction of the accused, on the basis of sworn testimony of witnesses identifying for the first time in court without the same being corroborated either by previous identification in the test identification parade or any other evidence, was upheld by this Court.

11.7 In the case of **Rajesh Govind Jagesha v. State of Maharashtra**⁶ it was laid down that

“The absence of test identification parade may not be fatal if the accused is sufficiently described in the complaint leaving no doubt in the mind of the court regarding his involvement or is arrested on the spot immediately after the occurrence and in either eventuality, the evidence of witnesses identifying the accused for the first time in court can form the basis for conviction without the same being corroborated by any other evidence and, accordingly, conviction of the accused was upheld by this Court.”

⁶ (1999) 8 SCC 428

11.8 In the cases of **Goverdhan & another v. State of Chhattisgarh**⁷, it was held that:

“Held, merely because some of the accused persons have been acquitted. though evidence against all of them, so far as direct testimony went, was the same does not lead as a necessary corollary that those who have been convicted must also be acquitted. It is always open to a court to differentiate the accused who had been acquitted from those who were convicted.

Just because the father of the appellants was acquitted will not warrant their acquittal as there is sufficient and cogent material evidence against them to prove the case beyond reasonable doubt whereas the case against the acquitted accused is doubtful”

ANALYSIS

12. Heard learned Counsel for the appellants as well as Ld. Counsel for the respondent. We have also perused relevant documents on record and the judgments passed by the Courts below. In our opinion, the judgment of the High Court is based on just and proper reappraisal as well as on a sound reasoning. The High Court has dealt with all the grounds raised in challenge to the judgment and order of the Trial Court in detail and it will

⁷ (2025) 3 SCC 378

not be out of place to refer to material observations of the High Court and the same are as under:

“The first contention, which requires consideration is that the demand for ransom is not proved and that the prosecution has not revealed as to how the alleged ransom was demanded. PW-1, the first informant has in his cross-examination stated that on receiving information of the incident over the telephone, he went in pursuit of the accused in the direction they were stated to have escaped after the kidnapping. The accused had entered the jungle. When he lost hope of finding his son he returned and lodged the FIR at 12:30 pm. He stayed at the police station for over two hours and that he reached home at 7:00 pm in the evening when his daughters narrated the incident to him. They also informed him about the ransom call which had been received at 11:00 am, the same day. PW-2 and PW-3 have in their oral testimony stated that there was a telephone connection in their house which on the date of incident was in working condition. They have also stated that a sum of Rs. 5 lacs was demanded as ransom. Even the first Investigating Officer, PW-7, in his oral testimony has stated that he was told by the first informant on 07.08.2003 about the call demanding ransom of Rs. 5 lacs and that in this connection he had also recorded the statement of Santosh Kaur, the mother of the abductee. From the facts noticed above, it is clear that there is no manifest discrepancy in the prosecution case regarding the demand of ransom. Moreover, PW-1 has clearly deposed that the call for ransom was received at around 11:00 am. Under the circumstances, the contention of learned counsel

for the appellants that the demand of ransom has not been proved cannot be accepted.

The second contention of learned counsel for the appellants that no test identification parade was held to identify the appellants also cannot be accepted. The prosecution has been able to prove that the abductee was recovered from a place in the adjoining district from a hut like house situated at a distance from the police station which distance could be covered in more than an hour by jeep and motorcycle. The place from where the abductee has been recovered was pointed out by Dilbag Singh @ Mitthu. The clothes worn by the abductee at the time of kidnapping have also been recovered from the same location and the memos prepared in this regard have been duly proved. Under the circumstances and since the abductee was recovered on the pointing out Dilbag Singh, statement that a test identification parade should have been held is of no consequence. As the abductee was recovered, it cannot be said that the prosecution case is fabricated in any manner. The recovery is also in the presence of public witnesses including the father of the abductee. The facts stated in the oral testimony match the GD and case diary entries referred to in the statement of the Investigating Officer.

It would also be relevant to note that Harjindra Singh has not been arrested but had surrendered in Court. The firearm used at the time of the incident to threaten the children has been recovered on his pointing out after obtaining his police remand and the testimony is in consonance with the GD entries.

Although, during trial the factum of obtaining police remand and after effecting recovery of the firearm Harjindra being produced before the Magistrate and thereafter being lodged in jail has been disputed, nothing of substance has been stated or has emerged from a careful perusal of the record that would cast any doubt upon the said sequence of events.

Besides, Harjindra has been identified by the PW-3 in Court as the person who had lifted the abductee and placed him on the motorcycle.

The only suspicious circumstance in the matter is the admission that the mother of the abductee and his sisters went to meet Harjindra in jail and this factum has been vehemently highlighted by learned counsel for the appellants. Learned counsel also submitted that this conduct of the family members is not a normal conduct, as eatables were also carried for Harjindra Singh, with the abductee mother and sisters went to meet him in jail and that this indicates that Harjindra has been falsely implicated in the matter.

The explanation offered in this regard by PW-2 during cross-examination is that they had gone to meet Harjindar with a view to inquire as to who was actually behind the kidnapping. The other circumstance, which emerges from the oral testimony of the abductee himself is that he was not ill treated during his detention.

In our considered opinion, this explanation for the jail visit cannot be said to be an impossibility or an explanation which is not plausible. Therefore, even Harjindra Singh is entitled to any benefit on the basis of the submissions that have been made by his Counsel. The accused have in their

testimony under Section 313 Cr.P.C. stated that they have been falsely implicated on account of enmity. However, no reason for any enmity between the appellants and the prosecution witnesses has been offered. The defence under the circumstances, is altogether vague and shorn of any specifics. It therefore, is not liable to be accepted.”

.....Emphasis supplied

13. In addition to the above-referred observations of the High Court, we may take note of certain factual aspects, the perusal of the record clearly show that the prosecution was successful to establish respective role of the each accused, particularly, the two appellants who are before us. The entire criminal machinery was set into motion following a daylight kidnapping of an 8-year-old school-going boy, Satnam Singh, at pistol point. Based on the evidence and the chargesheets filed, the roles and present status of the accused need to be taken into consideration. Accused Dilbag Singh @Mitthu (Appellant/Convict) was the individual driving the black Rajdoot motorcycle used for the abduction. He was identified as the driver who explicitly directed his accomplice to leave the girls and abduct the boy. Crucially, it was on his pointing out that the abducted child was safely recovered from a hut in village Nadia Pouriya on 08.08.2003. He was convicted under Sections 364A and

368 of the IPC and sentenced to life imprisonment. As the chain of evidence heavily implicates him, primarily the recovery of the victim directly ensuing from his confessional disclosure to the police, corroborated by the ocular testimony of the victim's sisters.

14. Accused Harjindra Singh (Appellant/ Convict) was the pillion rider on the motorcycle. He was the one who wielded a .315 bore country-made pistol, pointed it at the children, forcefully lifted the 8-year-old victim, pushed away the victim's sister when she resisted, and placed the child on the motorcycle. Subsequently, upon his police remand, the crime weapon (a .315 bore pistol) and live cartridges were recovered from a bush in the jungle on his pointing out. He was also convicted under Sections 364A, 368 of the IPC, and Section 25 of the Arms Act, serving a life sentence. His active participation is irrefutably proven by eyewitness dock identification and the forensic recovery of the weapon.

15. Accused Dalveer Kaur was found inside the hut in village Nadia Pouriya, physically guarding the abducted child alongside another individual. She was taken into custody from the spot and handed over the child's hidden school uniform to the police. She was convicted by the Ld. Trial Court. However, during the pendency of her appeal before the High Court, she passed away.

Consequently, her Criminal Appeal No. 4735 of 2006 has abated on account of her death.

16. Avtar Singh @ Pappu, Jassa Singh, Jagtar Singh, and Bahaar Ali were implicated as co-accused, these individuals were implicated during the investigation for allegedly assisting in guarding the child or conspiring in the crime. They have been acquitted by the Trial Court. The prosecution could not establish their active, participatory guilt beyond a reasonable doubt through direct evidence.

17. The appellants have fiercely contended that the acquittal of other co-accused renders their own conviction legally unsustainable. However, we are unable to accept the submissions of learned counsel for the simple reason that the roles played by those co-accused and the evidence against these co-accused was falling short to establish the case against these accused persons. As such, the Trial Court recorded an order of acquittal in favour of these co-accused persons, whereas there was sufficient legal evidence against the appellants before this Court and therefore, the Trial Court recorded order of conviction which was upheld by the High Court. In view of this fact, the appellants cannot claim principle of parity with the other co-accused and were acquitted by the Trial Court. As rightly relied upon by the respondent-State in

the case of **Goverdhan & another (Supra)**, “merely because some of the accused persons have been acquitted, though evidence against all of them, so far as direct testimony went, was the same does not lead as a necessary corollary that those who have been convicted must also be acquitted”. The evidence against Dilbag Singh and Harjindra Singh is of a substantially distinct and higher footing, involving direct ocular identification during the act of kidnapping and precise recoveries under Section 27 of the Evidence Act. Therefore, the acquittal of the co-accused has no bearing on the appellants’ culpability.

18. The defence has heavily argued that the entire prosecution case rests on the testimony of highly interested and partisan witnesses, specifically pointing out that PW.1 (Kuldeep Singh, father of the victim) is not an eyewitness. This Court finds this argument fundamentally flawed. While PW.1 is indeed the father of the victim, the law is well-settled that relationship with the victim is not a ground to discard a witness's testimony. We place firm reliance on the judgment of this Court in **Naresh (supra)**. On carefully analysing the evidence, we see that PW.1’s actions were entirely natural. Upon hearing of the kidnapping, he immediately went in pursuit of the abductors into the jungle. When the pursuit failed, he lodged the FIR promptly at 12:30 pm. He is not an

eyewitness to the abduction itself, but he is a vital witness to the lodging of the FIR and the subsequent recovery of the child on the pointing out of Dilbag Singh, which he personally witnessed.

19. The actual eyewitnesses to the kidnapping are PW.2 (Sandeep Kaur) and PW.3 (Mandeep/Anudeep Kaur), the victim's sisters who were cycling to school with him. Despite exhaustive cross examination, the defence failed to extract any material contradiction from these young witnesses. PW.2 and PW.3 vividly described the black Rajdoot motorcycle, the physical appearance of the appellants, and the terrifying use of the firearm to forcefully take their brother. Furthermore, PW.4, the 8-year-old abducted child (Satnam Singh), testified clearly about the traumatic event, explicitly identifying Dilbag Singh as the driver. The defence argued that PW.4 admitted he was treated with "love and affection" during his captivity and was not explicitly threatened with death. However, being treated without physical cruelty during illegal detention does not absolve the kidnappers of the initial violent abduction at pistol point, nor does it extinguish the terror inflicted upon the victim's family.

20. The core of the appellants' legal challenge rests on the assertion that the essential ingredients of Section 364A IPC have not been satisfied. The learned counsel for the appellants

vehemently relied upon the judgment of this Court in ***Shaik Ahmed (supra)***, highlighting Paras 13 and 14, which state that whoever kidnaps a person must *also* threaten to cause death or hurt to such person to attract Section 364A. The defence argued that neither was a threat to life extended to the child, nor was the demand for ransom successfully proved.

21. We have scrutinized this contention in the light of the evidence. The very act of stopping young, defenceless children on their way to school by brandishing a .315 bore country-made pistol inherently constitutes a severe threat to cause death or hurt. The use of a lethal firearm to compel compliance and abduct the child perfectly satisfies the second condition of Section 364A as enunciated in ***Shaik Ahmed (supra)***.

22. Regarding the demand for ransom, the defence cited ***Willian Stephen (supra)***, arguing that the absence of Call Detail Records (CDRs) and a Section 65-B certificate is fatal to the prosecution's claim of a ransom demand. It was argued that no specifics of the phone call were documented.

23. However, this Court cannot evaluate evidence in a vacuum. PW-1 clearly deposed in his cross-examination that upon returning home at 7:00 PM after lodging the FIR and conducting a search, his daughters informed him that a ransom call demanding Rs. 5

Lakhs had been received at their working home telephone around 11:00 am that very day. This is fully corroborated by the testimonies of PW.2 and PW.3, who were present in the house and testified about the demand of Rs. 5 Lakhs. Most importantly, PW.7 (the Investigating Officer) deposed that PW.1 informed him about this Rs. 5 Lakh ransom call on 07.08.2003, and the I.O. subsequently recorded the statement of Santosh Kaur (the victim's mother) regarding this specific call.

24. Unlike the factual matrix in ***Willian Stephen (supra)***, where the entire case hinged exclusively on discarded electronic evidence, the present case features unshaken, corroborative oral testimonies from multiple witnesses proving the ransom demand. The lack of a CDR from a rural telephone exchange in 2003 cannot be permitted to paralyze the criminal justice system when the substantive oral evidence remains cogent, credible, and completely unimpeached. Therefore, the High Court rightly concluded that the demand for ransom was established beyond reasonable doubt.

25. The appellants have strongly contested their identification, submitting that no formal Test Identification Parade (TIP) was conducted. Relying on ***Wahid (supra)***, the defence argued that dock identification for the first time in court, years after the incident, without a preceding TIP, does not inspire confidence.

26. This argument is legally untenable given the specific facts of this case. A TIP is not a substantive piece of evidence; it is merely corroborative. As correctly pointed out by the respondent-State, this Court in **Ronny @ Ronald James Alwaris Etc (supra)** clearly laid down that “*where the witness had a chance to interact with the accused or that in a case where the witness had an opportunity to notice the distinctive features of the accused which lends assurance to his testimony in court, the evidence of identification in court for the first time by such a witness cannot be thrown away merely because no test identification parade was held.*” Furthermore, in **Rajesh Govind Jagesha (supra)**, we held that the absence of a TIP is not fatal if the accused is sufficiently described or arrested immediately after the occurrence.

27. In the case at hand, the incident took place in broad daylight (6:30 am). The young girls (PW.2 and PW.3) had a clear, unobstructed opportunity to observe the physical features of the kidnappers during the traumatic confrontation that lasted several minutes, which included physical pushing and verbal exchange in Punjabi. They provided accurate physical descriptions to the police immediately. Furthermore, Dilbag Singh was identified by the girls at the police station shortly after his arrest. Harjindra Singh was positively identified in court by PW-3.

28. More importantly, the identity of the perpetrators is decisively cemented by the recoveries made pursuant to their own disclosures. Dilbag Singh's custodial statement led directly to the recovery of the kidnapped child and the co-accused Dalveer Kaur in an adjoining district-a location the police could not have possibly known otherwise. Similarly, Harjindra Singh, after surrendering, led the police to the exact bush near a pipal tree where a .315 bore pistol and live cartridges used in the crime were recovered. These direct recoveries under Section 27 of Indian Evidence Act completely negate the necessity of a formal TIP and establish the appellants' guilt irrefutably.

29. The defence vigorously highlighted a supposedly "suspicious circumstance" wherein the mother and sisters of the victim went to the jail to meet Harjindra Singh and allegedly brought eatables for him. The appellants argued that such conduct is highly abnormal for a victim's family and points towards false implication.

30. The High Court profoundly examined this contention, and this Court finds no reason to deviate from its finding. During cross-examination, PW.2 provided a highly plausible and natural explanation: the family members visited Harjindra Singh in jail strictly to inquire and uncover the identity of the actual mastermind behind the kidnapping. It is a natural human reaction

for a traumatized family to seek answers about why they were targeted. Bringing eatables does not equate to absolving a kidnapper of his crimes. As the High Court rightly noted, this explanation is neither impossible nor implausible. We are in complete agreement with the view expressed by the High Court, as such this single circumstance cannot be a reason to discard the other credible evidence brought before the Court and on a thorough appreciation accepted by the Court.

CONCLUSION

31. To summarize, the prosecution has successfully woven a seamless chain of evidence against the appellants.

- 1) The factual abduction of 8-year-old Satnam Singh on 05.08.2003 was established by unimpeachable eyewitness accounts (PW.2, PW.3).
- 2) The threat to life was proven by the overt use of a deadly firearm at the time of abduction, squarely satisfying the threshold of Section 364A IPC as interpreted in *Shaik Ahmed*.
- 3) The demand for a ransom of Rs. 5 Lakhs was unequivocally proven through consistent oral testimonies of the family and the Investigating Officer.

4) The identity and active role of the appellants were conclusively established not just by dock identification, but by the infallible recoveries made under Section 27 of the Evidence Act; the recovery of the living child at the behest of Dilbag Singh, and the recovery of the crime weapon at the behest of Harjindra Singh.

5) The defence of false implication due to “enmity” was entirely hollow, as the appellants utterly failed in their Section 313 Cr.P.C. statements to disclose any specific motive or pre-existing animosity that would compel the victim's family to falsely frame them.

32. The Ld. Trial Court and the Hon’ble High Court of judicature at Allahabad have appreciated the evidence in its correct perspective. The conviction is based on a sound legal footing and profound factual analysis.

33. Accordingly, this Court finds absolutely no merit in the contentions raised by the appellants. The judgment and order dated 05.08.2022 passed by the High Court affirming the conviction of Dilbag Singh @ Mitthu and Harjindra Singh under Sections 364A and 368 of the IPC (and Section 25 of the Arms Act

for Harjindra Singh) is hereby upheld. The sentence of life imprisonment awarded to them is sustained.

34. The appeals are hereby dismissed.

.....**J.**

[PANKAJ MITHAL]

.....**J.**

[PRASANNA B. VARALE]

NEW DELHI;

MAY 27, 2026.