P. LIAQUAT ALI KHAN

v.

STATE OF ANDHRA PRADESH

(Criminal Appeal No. 665 of 2006)

APRIL 17, 2009

[DR. ARIJIT PASAYAT AND ASOK KUMAR GANGULY, JJ.]

Penal Code, 1860 – s.364A – Alleged kidnapping of minor child for ransom – Role of accused – Held: On facts, demand of ransom was clearly established – Besides, in terms of the disclosure made by the accused, the child was found confined in a house – Courts below were therefore justified in convicting the accused u/s.364A.

According to the prosecution, the appellant kidnapped the three year old daughter of PW2 and demanded ransom for releasing her; that he asked PW2 to keep the ransom amount in a bag and place it under a culvert; that PW2 placed a bag under the culvert whereupon appellant came there and collected the bag and while he was returning back, police officials caught hold of him and in terms of the disclosure made by the appellant, the kidnapped child was found confined in a house. The trial court convicted the appellant under s.364A IPC. High Court declined to interfere. Hence the present appeal.

Dismissing the appeal, the Court

HELD: s.364-A IPC deals with separate type of offence where ransom is a distinguishing feature. In the present case, the demand of ransom by accused-appellant was clearly established and the role played by him was analysed by the trial Court and the High Court.

Appellant got written Exts. P2 and P3 in regard to his demand for ransom and his house is at a short distance from the house of the victim. The evidence on record shows that in terms of the disclosure made by the accused the child was recovered. The appellant came near the culvert and picked up the bag containing money. The prosecution case is that the place was indicated where the bag was to be kept. The appellant's demand for ransom was involved and therefore s.364A has clear application. [Paras 6 and 8] [497-B-C, F-G]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 665 of 2006.

From the Judgment & Order dated 28.01.2006 of the High Court of Judicature Andhra Pradesh at Hyderabad in Criminal Appeal No. 488/2004.

Ranjit Kumar, Guru Krishan Kumar and Srikala Gurukrishna Kumar for the Appellants.

I. Venkata Narayana Reddy and Debojit D. Bharathi Reddy for the Respondents.

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. 1. Challenge in this appeal is to the judgment of a Division Bench of the Andhra Pradesh High Court dismissing the appeal filed by the appellant. The learned IV Additional Sessions Judge, Kurnool found the accused appellant guilty of offence punishable under Section 364-A of the Indian Penal Code, 1860 (in short the `IPC') and sentenced him to undergo imprisonment for life.

2. Background facts in a nutshell are as follows:

P.W.1 is grandfather and PW-2 is father of the victim minor girl- Keerthi. PW-7 is their driver. PW-3 is maid servant, PW-5 is the class teacher of Nursery class and PW-6 is Principal,

of Sri Lakshmi English Medium School, Kurnool. Keerthi aged about 3 years was studying in Nursery class of the school. On 03.7.2001 at about 8.30 a.m., PW 7 dropped the girl at the school and at about 8.45 a.m, one person came to her class, informed PW 5 that parents of the child forgot to give syrup to her and on his request, the girl was sent with him to administer the same. After noticing that the child has been carried away by him, PW 5 instructed PW 3 to stop him. The said person did not stop though cautioned by PW 3 and so, she asked PW 8, who was coming by scooter, to stop that person. When PW 8 stopped him and enquired about the matter, the said person informed that he was taking the child for administering syrup and saying so, he boarded a bus and went away. Thereafter, PW 3 went to the shop of PW 4 and enquired from him who also informed her about the taking away of the child by the said person. Later, PWs 3 and 5 went to PW 6 and informed about the incident to her, who in turn informed about the incident to the parents of the child. The parents came to the school, searched for the child in N.R. Peta area of Kurnool and surrounding places. PWs 3 and 5 narrated the physical features of the kidnapper. PW-12 registered the case on the basis of Ex. P1-report and PW 13 took up further investigation.

On 4.7.2001, Ex. P2. - letter demanding Rs. 1 crore for releasing the child was received by PW I, who handed over the same to PW 13 in the presence of PW 11 under Ex.P5 - panchanama. On 9.7.2001, another letter addressed in the name of PW 2 was dropped in the house of PW 9 a neighbour of PW 1, demanding Rs.75 lakhs with an instruction to keep the amount in a bag and place it under a culvert situated after crossing Radio Station on 10.7.2001, which was handed over to PW 13 under Ex. P6-panchanama. On 10.7.2001 at about 12.30 p.m. on the instructions of PW 13, PW 2 placed a bag containing papers under the culvert. Mufti police constables, PW 2, PW 13 and mediators were hiding in nearby throny bushes around the culvert. At about 1.00 p.m. the accused came to that place by a scooter, picked up the bag and when

A he reached the road mufti constables surrounded and caught hold of him and on enquiry, accused furnished his particulars. In pursuance of Ex. P 7- Statement, he led them to Avanthi Nagar Street near House No 2-19-10-12 which was locked from outside with a to let board. The accused opened the B doors and led them to rear side bathroom where the child was found. PW-2 identified the child. Ex. P.8 is the said panchanama and Ex.P10 is rough sketch showing topography of the house where the girl was confined. On requisition by police, PW 10- Magistrate conducted test identification parade C on 21.7.2001.

After completion of investigation, charge sheet was filed. Since the accused persons pleaded innocence, trial was held. To substantiate the accusations, thirteen witnesses were examined and several documents were exhibited and case D properties were marked.

The trial Court held the appellant guilty. In appeal High Court declined to interfere.

E 3. The basic stand in the present appeal was that contents of Exh.P2 and P3 were not proved to have been written by the appellant and if that aspect is not proved the question of kidnapping for ransom does not arise as there was no evidence to show that the accused demanded any amount. It was also submitted that Section 364-A had no application.

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4. Learned counsel for the respondent-State on the other hand supported the judgment.

5. It is to be noted that while granting leave it was restricted G to the nature of offence only. Learned counsel for the appellant submitted that Section 364-A was introduced by Notification in the Official Gazette w.e.f. 3.12.1992 The Statement of Objects and Reasons for the introduction shows that kidnapping for ransom is relatable only to cases where intention was to cause death or hurt and not to a case of this nature. The object of the H

introduction has also been referred to in this regard. A

6. Section 364-A deals with separate type of offence. The reasons for introduction of the provision need to be noted. Sections 364, 365, 366 and 367 deal with various situations under Chapter XVI. Accused got written Exts. P2 and P3 and his house is at a short distance from the house of the victim. The accused's demand for ransom is involved and therefore Section 364-A has clearly application. The evidence on record shows that in terms of the disclosure made by the accused the child was recovered. The accused came near the culvert and picked up the bag containing money. The prosecution case is that the place was indicated where the bag was to be kept. As indicated above arrangement was worked out on 10.7.2001 and the bag was put as indicated by the accused who came to collect the same. B C D

7. Section 364-A reads as follows:

> "364-A-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 cause hurt or death to such person in order to compel the Government or a 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 fine." E F

8. Section 364-A deals with separate type of offence where ransom is a distinguishing feature. The demand of ransom has been clearly established and the role played by the accused has been analysed by the trial Court and the High Court. We find no infirmity in the present appeal to warrant interference which is accordingly dismissed. G

B.B.B. Appeal dismissed. H