

Page 1 of 8
Santosh Kumar Pandey,
District & Additional Sessions Judge-II, Darbhanga
Sessions Trial No. 57/2022
[Arising out of Town P.S. Case No. 195/2019]
The state of Bihar versus Vivek Kumar.
Date of Judgement : 24.06.2026

IN THE COURT OF DISTRICT & ADDITIONAL SESSIONS JUDGE-II DARBHANGA Santosh Kumar Pandey, District & Additional Sessions Judge-II Date of Judgment:- 24.06.2026 <u>ST No.- 57/2022</u> <u>[CIS/Registration No. 57/2022]</u> Arising out of Town PS Case No.- 195/2019	
REPRESENTED BY	Smt. Renu Jha, Learned Addl. P.P.
ACCUSED	Vivke Kumar s/o Pramod Sah, resident of Village - Jitugachhi, P.S. - Sadar, District - Darbhanga.
REPRESENTED BY	Sri Amar Nath Mandal, Learned Advocate

Date of Offence	08.08.2019
Date of FIR	11.08.2019
Date of Charge-sheet	CS No.-149/2020, Dated-30.04.2020
Date of Framing of Charges	17.06.2022
Date of Commencement of evidence	13.12.2023
Date on which judgment is reserved	09.06.2026
Date of the Judgment	29.06.2026
Date of the Sentencing Order, if any	NIL

Accused Details:

Rank of the accused	Name of the accused	Date of Arrest	Date of Released on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for purpose of Section 428 CrPC
A1	Vivek Kumar	24.04.20	26.02.20	Section 363, 366(A) IPC	Acquitted	N/A	N/A

Page 2 of 8
Santosh Kumar Pandey,
District & Additional Sessions Judge-II, Darbhanga
Sessions Trial No. 57/2022
[Arising out of Town P.S. Case No. 195/2019]
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LIST OF PROSECUTION/DEFENCE/COURT WITNESSES :-

A. Prosecution

Rank	Name	Nature of Evidence (Eye-witness, Witness of last seen circumstances, Medical jurist/Medical Witness, Investigating Officer, Complainant/First Informant, Police Witness, Expert Witness, Panch Witness, Other Witness)
PW 1	Ranjit Sahni	The Informant.

B. Defense Witnesses, if any :-

Rank	Name	Nature of Evidence (Eye-witness, Witness of last seen circumstances, Medical jurist/Medical Witness, Investigating Officer, Complainant/ First Informant, Police Witness, Expert Witness, Panch Witness, Other Witness)
Nil	Nil	Nil

C. Court Witnesses, if any :-

Rank	Name	Nature of Evidence (Eye-witness, Witness of last seen circumstances, Medical jurist/Medical Witness, Investigating Officer, Complainant/ First Informant, Police Witness, Expert Witness, Panch Witness, Other Witness)
Nil	Nil	Nil

Page 3 of 8
Santosh Kumar Pandey,
District & Additional Sessions Judge-II, Darbhanga
Sessions Trial No. 57/2022
[Arising out of Town P.S. Case No. 195/2019]
The state of Bihar versus Vivek Kumar.
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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :-

Sr. No.	Exhibit Number	Description (Inquest Panchnama/Memo, Recovery Panchnama/Memo, Arrst Memo, Post-mortem Report, FSL Report Other exhibit)	Proved by /Attested by
1.	P-1	Signature of the informant on the hand written application so forming the basis of the FIR.	PW-1

B. Defense :-

Sr. No.	Exhibit Number	Description (Inquest Panchnama/Memo, Recovery Panchnama/Memo, Arrst Memo, Post-mortem Report, FSL Report Other exhibit)	Proved by /Attested by
-	Nil	Nil	NIL

C. Court :-

Sr. No.	Exhibit Number	Description (Inquest Panchnama/Memo, Recovery Panchnama/Memo, Arrst Memo, Post-mortem Report, FSL Report Other exhibit)	Proved by /Attested by
-	NIL	NIL	NIL

Present :-

Santosh Kumar Pandey
District & Additional Sessions Judge-II,
Darbhanga.

Page 4 of 8
Santosh Kumar Pandey,
District & Additional Sessions Judge-II, Darbhanga
Sessions Trial No. 57/2022
[Arising out of Town P.S. Case No. 195/2019]
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JUDGMENT

1. The accused, namely **Vivek Kumar**, has been sent up for trial on charges punishable under **Sections 363 and 366(A) of the Indian Penal Code**.
2. The prosecution case, as emerging from the written report of the Informant, is that on 08.08.2019 at about 03:00 PM, his daughter, namely Varsha Kumari, informed her grandmother that she was going to meet her friends. After a few hours, when the Informant returned home and enquired about his daughter, he was informed that she had gone out to meet her friends. When she did not return, the Informant and his family members searched for her at various places and also made enquiries from relatives and villagers, but her whereabouts could not be ascertained. It is alleged that sometime prior to the occurrence, a mobile phone number allegedly belonging to a boy had been found in possession of the victim, for which she had been reprimanded by the Informant. Thereafter, the Informant and his family members went to the house of the accused Vivek Kumar and enquired about the victim. According to the Informant, the accused denied any knowledge regarding her whereabouts, while his family members allegedly abused and threatened the Informant. On the basis of suspicion that the accused had enticed away his daughter for the purpose of marriage, the present case came to be instituted.
3. On the basis of the aforesaid written report, **Town (Darbhanga) P.S. Case No. 195 of 2019** was registered on **11.08.2019** under the relevant provisions of law and investigation was entrusted to Sub-Inspector Yogendra Manjhi. Upon completion of investigation, charge-sheet was submitted against the accused. Cognizance of the offences was duly taken and the accused was summoned to face trial.
4. Charge under Sections 363 and 366(A) of the Indian Penal Code was framed against the accused, to which he pleaded not guilty and claimed to be tried.
5. The defence of the accused is one of complete denial and false implication.

Page 5 of 8
Santosh Kumar Pandey,
District & Additional Sessions Judge-II, Darbhanga
Sessions Trial No. 57/2022
[Arising out of Town P.S. Case No. 195/2019]
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6. The principal point for determination is:

Whether the prosecution has succeeded in proving beyond reasonable doubt that the accused kidnapped or induced the victim girl and thereby committed offences punishable under Sections 363 and 366(A) of the Indian Penal Code?

7. In order to prove its case, the prosecution examined only one witness, namely:

PW-1 Ranjit Sahni (Informant)

8. The prosecution also proved the following document:

Exhibit-1 : Written report bearing the signature of the Informant.

9. PW-1 Ranjit Sahni deposed that the occurrence took place about four years prior to his deposition. He stated that his daughter had gone away from the house and when she could not be traced despite search, he instituted the present case against the accused Vivek Kumar alleging kidnapping. He further stated that his daughter's name was Varsha Kumari and that she was about eighteen years of age at the relevant time. He identified the accused in Court and also identified his signature on the written report which formed the basis of the FIR. PW-1 further stated that subsequently his daughter was recovered from the house of the accused and informed him that she had married Vivek Kumar.

However, during cross-examination, PW-1 substantially departed from the prosecution case. He categorically stated that he did not know who had written the written report and was unaware of its contents. He further stated that at the time of occurrence his daughter was eighteen years old and that he had lodged the present case under pressure from villagers. According to him, the marriage between his daughter and the accused had taken place with the consent of both families and thereafter they lived happily as husband and wife. PW-1 further deposed that his daughter subsequently died a natural death about two years prior to his testimony and that he had participated in her last rites. Most significantly, he categorically stated that no one had kidnapped his daughter. He further stated that his signature on the written report had been obtained under pressure from the police and that he did not wish to pursue the case any further.

Page 6 of 8
Santosh Kumar Pandey,
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Sessions Trial No. 57/2022
[Arising out of Town P.S. Case No. 195/2019]
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10. Thus, the sole witness examined by the prosecution has not supported the prosecution version on any material aspect. Rather, he has completely exonerated the accused by stating that the victim had voluntarily married him and that no kidnapping had taken place.
11. It is also noteworthy that despite the Informant having turned hostile and despite the victim having admittedly died prior to trial, the prosecution did not take any effective steps to examine the remaining charge-sheeted witnesses. Consequently, the prosecution evidence remained confined solely to the testimony of PW-1, which does not support the allegations contained in the FIR.

FINDINGS AND REASONS

12. The accused has been charged under Sections 363 and 366(A) of the Indian Penal Code.
13. To establish an offence under Section 363 IPC, the prosecution is required to prove that the victim was a minor and that she was taken or enticed away from the lawful guardianship of her guardian without consent.
14. Likewise, for bringing home a charge under Section 366(A) IPC, the prosecution must prove that the accused induced a minor girl to go from any place or to do any act with the intention or knowledge that she would be forced or seduced to illicit intercourse with another person.
15. In the present case, the prosecution has utterly failed to establish the essential ingredients of either offence. The sole witness examined by the prosecution, namely the Informant himself, has categorically stated that his daughter was about eighteen years of age at the relevant time. He has further stated that the victim voluntarily married the accused and that no kidnapping whatsoever had taken place.
16. The testimony of PW-1 completely demolishes the substratum of the prosecution case. The allegations contained in the FIR remain wholly unsubstantiated in the absence of any supporting evidence. Significantly, the victim herself could not be examined as, according to PW-1, she had died a natural death before her

Page 7 of 8
Santosh Kumar Pandey,
District & Additional Sessions Judge-II, Darbhanga
Sessions Trial No. 57/2022
[Arising out of Town P.S. Case No. 195/2019]
The state of Bihar versus Vivek Kumar.
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evidence could be recorded. The prosecution also failed to examine any other material witness who could lend support to the allegations made in the FIR.

17. Criminal conviction cannot be founded upon mere suspicion, conjecture or allegations contained in the FIR. The FIR is not substantive evidence and can only be used for limited purposes recognized by law. In the absence of reliable and legally admissible evidence establishing the guilt of the accused, no conviction can be sustained.
18. It is a cardinal principle of criminal jurisprudence that the burden always rests upon the prosecution to prove its case beyond reasonable doubt. The accused is presumed innocent unless such burden is discharged through cogent, reliable and trustworthy evidence.
19. In the case at hand, not only has the prosecution failed to prove its case, but the sole witness examined by it has categorically exonerated the accused and denied the very occurrence of kidnapping. Consequently, serious and substantial doubt arises regarding the prosecution story, and the benefit of such doubt must necessarily enure to the accused.
20. This Court is therefore of the considered opinion that the prosecution has failed to establish the charges under Sections 363 and 366(A) IPC beyond reasonable doubt.

ORDER

21. In view of the discussions, findings and reasons recorded hereinabove, this Court holds that the prosecution has failed to prove the charges under **Sections 363 and 366(A) of the Indian Penal Code** against accused **Vivek Kumar** beyond all reasonable doubt.
22. Accordingly, accused **Vivek Kumar** is hereby **acquitted** of the charges punishable under **Sections 363 and 366(A) of the Indian Penal Code**.
23. The accused is on bail. His bail bonds are hereby cancelled and the sureties stand discharged from their respective liabilities.

Page 8 of 8
Santosh Kumar Pandey,
District & Additional Sessions Judge-II, Darbhanga
Sessions Trial No. 57/2022
[Arising out of Town P.S. Case No. 195/2019]
The state of Bihar versus Vivek Kumar.
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24. Any process issued against the accused in connection with the present case shall stand cancelled. Office is directed to communicate the order to the concerned authorities, if necessary.
25. Let the record of the case be consigned to the Record Room after due compliance.

Judgment pronounced in the open Court.

Dictated and corrected by me.

(Santosh Kumar Pandey)
Additional Sessions Judge - II,
Darbhanga
24.06.2026

(Santosh Kumar Pandey)
Additional Sessions Judge - II,
Darbhanga
24.06.2026

Date of Judgement/order	24.06.2026
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