

Judgment in S. T. No. - 407/2019 (In connection with Sahiyara P. S. Case No. – 143/2016)

State Vs. Kamlesh Paswan

Present – DEVESH KUMAR

Additional Sessions Judge – XIV, Civil Court Sitamarhi

IN THE COURT OF ADDITIONAL SESSIONS JUDGE - XIV
CIVIL COURT SITAMARHI

Present – Devesh Kumar
Additional Sessions Judge – XIV
Civil Court Sitamarhi

[Date of the Judgment – 19-07-2025]

[Sessions Trial No. - 407/2019]
(Arisen out of G. R. No. - 3609/2016)
(In connection with Sahiyara P. S. Case No. – 143/2016)

STATE OF BIHAR
(Through the Informant viz.- Phul Kumari Devi)

REPRESENTED BY

Mr. Khedu Bhagat
The Learned APP for the State

Vs.

ACCUSED

1. Kamlesh Paswan
Age – 36 Years S/O – Upendra Paswan
R/O Village - Sahiyara P.S. - Sahiyara District - Sitamarhi
(Age of accused persons are as per statement u/s 313 of CrPC)

REPRESENTED BY

Mr. Anil Kumar
The Learned Counsel appeared for the Defence

Date of Offence	13-11-2016
Date of FIR	14-11-2016
Date of Charge-sheet	15-01-2017
Date of Framing of Charges	06-01-2020
Date of commencement of evidence	13-02-2020
Date on which Judgment is reserved	11-07-2025
Date of the Judgment	19-07-2025
Date of the Sentencing Order, if any	N/A

ACCUSED DETAILS

Rank of the Acc-used	Name of Accused	Date of Arrest	Date of Release on Bail	Offences Charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428 CrPC
	As named in the title page of the Judgment			U/S – 363 & 366-A of IPC	Acquitted	N/A to anyone	N/A to anyone

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution :- 2 As follows :-

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Sobhi Paswan	Other Witness
PW2	Soni Kumari	Other Witness

B. Defence Witnesses, if any: NIL

C. Court Witnesses, if any: NIL

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

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A. Prosecution Exhibits : 1

Sr. No.	Exhibit Number	Description
1	Exhibit P-1/PW2	Signature of Soni Kumari on Statement u/s 164 of CrPC

B. Defence Exhibits : NIL

C. Court Exhibits : NIL

D. Material Objects : NIL

J U D G M E N T

[1] In the instant case the above-named accused-person has faced the trial for the **Charges** for the offence punishable under sections **U/S – 363 & 366-A of IPC**.

[2] Prosecution case as per written report of Informant - **Phul Kumari Devi** W/O – Lalit Choudhary R/O – Village – Sahiyara P.S. - Sahiyara District – Sitamarhi, is that on the date – 13-11-2016 the Informant had gone to Madhunpatti in Nepal and on the same day at about 6 O'clock in the evening, the accused-persons of this case viz.- Upendra Paswan, Kamlesh Paswan, Usha Devi, Devendra Paswan, all came at the door of her house by an Auto-rickshaw and on the gun point forcibly kidnapped her minor daughter viz.- Soni Kumar aged – 14 years. On hulla of her daughter the people nearby gathered there & seen that they were fled away. Hence the FIR was registered as above.

[3] On receipt of the information the Police registered the FIR and moved for investigation. The Police on the basis of investigation submitted the Charge-sheet **C. S. No. - 1/2017** dated 15-01-2017 against only one accused viz.- **Kamlesh Paswan** for the offences punishable **U/S – 363 & 366-A of IPC** by showing all rest FIR named accused-persons viz.- Upendra Paswan, Usha Devi and Devendra Paswan as **innocent**.

[4] On receipt of the Charge-sheet, the then learned Court below took cognizance under the same and after furnishing necessary copies of Police Papers to the accused-persons in compliance of Section 207 of CrPC and thereafter in compliance of Section 209 of CrPC the learned Court below committed this Case along-with the accused to the Ld. Court of Sessions Judge, who kept the case into his personal file. During the course of time the case was transferred to this Court for the trial and disposal.

[5] The then Ld. Predecessor Court, upon hearing and considering the material on the record, framed the **Charge** for the offence punishable under section **U/S – 363 & 366-A of Indian Penal Code** against the sole above-named accused and the charges were read over and explained to the sole above-mentioned accused-person in Hindi to which both the sole accused-person pleaded not guilty and claimed to be tried.

[6] During the trial the evidences were led by the Prosecution and after the completion of the evidence of the Prosecution, the statements of the accused-person were recorded u/s 313 of the CrPC on the date 26-06-2025 in which the accused has denied the incriminated materials against him and has claimed himself to be innocent.

[7] I have joined & succeeded this Court of Additional Sessions Judge - XIV on the Date 27/03/2025 and I proceeded with the case therefrom accordingly as per Law.

[8] I have heard the respective arguments of learned counsel for the Defence and the learned APP for the State and I have carefully gone through the evidences on the Record.

[9] Now the question arises before me whether the Prosecution has been able to prove all the charges against the accused beyond the reasonable doubt or not ?

FINDINGS

[10] In this case the prosecution has produced only two prosecution witness viz.- **PW1 – Sobhi Paswan** and **PW2 – Soni Kumari**. Prosecution has not produced Informant - Phul Kumari Devi in this case. Except these oral witnesses the Prosecution did not produced any further evidence neither has produced the Investigating Officer.

[11] Let us see whether the prosecution has proved these charges against the accused-person beyond reasonable doubt or not. Out of the two witnesses examined by the prosecution, the one witness viz.- PW1 – Sobhi Paswan has not supported the prosecution case and has turned hostile and therefore the prosecution itself has declared this witness as hostile witness. Rest one witness is Soni Kumari, alleged kidnapped girl.

[12] PW2 **Soni Kumari**, the **Informant's daughter, the alleged kidnapped girl in this case**, has not supported the prosecution case in her testimonies given before the Court in Examination-in-Chief as she has stated in her deposition as follows :-

“ **The occurrence was of the nine years ago at about seven pm in evening. She came out of her house and directly went to her Sasural Kamlesh Paswan. She had solemnized marriage with Kamlesh Paswan one month ago of the alleged occurrence at Janaki Mandir at Sitamarhi. No one had taken out her forcibly out of her house and no one had kidnapped her. Her parents has lodged false case. She is living in her Sasural and she has two daughters and she have come to Court with her husband Kamlesh Paswan. When She had given her Statement of 164 of CrPC she was of 18 years. She has no problem in her Sasural. ” [Para – 1]**

“**She and her husband are of different caste and therefore her mother had lodged this case.” [Para – 2 of Cross-Examination]**

[13] I have also perused **Statement of 164 of CrPC of Soni Kumari (Ext – P1)** and I find that the alleged kidnapped girl viz.- Soni Kumari has stated her age in the statement as 18 years and the Ld. Judicial Magistrate has also assessed her age as 18 years and the victim has stated in her statement the ditto what she has stated in her Examination-in-Chief in the Court and she has denied from her kidnapping by the accused-persons of this case. She has stated in her Statement that “she has solemnized marriage with accused Kamlesh Paswan with her own consent in Janaki Mandir at Sitamarhi and on the alleged date of occurrence she went with him.”

[14] From the bare reading of the testimonies of the **Informant's daughter viz.- Soni Kuamri (PW2), the alleged kidnapped girl**, it is evident that the **Informant's daughter has not supported the prosecution case of her kidnapping.**

[15] From the above precise discussion & appreciation of the evidences, I find that the Prosecution has not been able to prove any of the above Charges as leveled against the above-named accused-person beyond any reasonable doubt.

[16] Therefore in my view both the sole above-named accused-person is entitled to be acquitted from all the charges under sections - 363 & 366-A of IPC due to non-proof of the charges against him in this case.

[17] Hence it is Ordered that the accused-person here-in-above named in the title page of the Judgment is hereby acquitted & therefore is set at liberty. The above-named accused-person is also discharged from the liability of the bail-bonds.

**Judgment typed and corrected by myself
and pronounced by me in the open Court.**

**Additional Sessions Judge - XIV
Civil Court Sitamarhi**

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Civil Court Sitamarhi**