

IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE,
1st COURT, Chinsurah, Hooghly.

Present : Sri Rintu Sur, (J.O Code WB 00877)
Addl. District & Sessions Judge,
1st Court, Chinsurah

S.T 16(04)2024
S.C 271/2023

(CNR No. WBHG01-004263-2023)

(Arising out of Panduah P.S case no.247/2023 dt.09.05.2023)

State of West Bengal

.....Prosecutor

-Versus-

Suman Dholey & five others

.....Accused Persons

Mr. Kalyan BanerjeeLd. P.P. in-charge, Hooghly

1. Mr. Sudip Chowdhury
2. Shib Sankar Roy,
3. Arup Kanti Chatterjee
4. Bhaskar Prasad Banerjee Ld. Defense counsels

Under Sections 363/365/364A/120B of the Indian Penal Code

Dated: Chinsurah the 20th day of April, 2026.

J U D G E M E N T

1. In this case the accused/persons, namely, Suman Dholey, Nabendu Kumar Ghosh, Subhasish Tribedi @ Raja, RAtan Kshetrapal, Sudip Bhattacharjee @ Tilok & Suchismita BAnerjee (Tribedi) @ Manu are facing trial for commission of offence punishable u/s 363/365/364A/120B of the IPC.

: Factual Matrix :

2. Instant case was initiated on the basis of a written complaint lodged by one Monoranjan Saha to the effect that on 09.05.2023 at 11:15pm his minor son Adhyayan Saha aged about 2 years 06 months was kidnapped by two unknown miscreants when one of his employees Suman Dholey took his son for a ride in his motorcycle like other days and reached near Kazi Mohallah Masjid.

3. Over the incident, a specific case being Panduah P.S case no.247/2023 dt. 09.05.2023 u/s 363/365 IPC was registered and the case was endorsed to S.I Asraf Ali Mollah. During investigation, he visited the P.O and prepared rough sketch map with index. He recovered the victim boy from Hatni under P.S Panduah on the same day of missing. Victim child and the complainant were produced before the learned Magistrate for recording their judicial statements. He seized birth certificate of the victim child and other documents. He managed to secure arrest of the accused persons and made a prayer before the learned CJM, Hooghly for adding section 364A/120B IPC. He made a prayer for police custody of the accused persons except female accused. During P.C period as per disclosure statements of the accused persons, he recovered mobile phone, one red colour pulsar motorcycle, one VIVO smart phone, one brown colour envelope containing photographs of the victim child, one black colour Hero HF Delux motorcycle. He also recorded statements of the available witnesses u/s 161 of Cr.P.C and also collected CDR of the mobile phone number of the accused persons. After conclusion of investigation, he submitted charge-sheet against the accused persons namely Suman Dholey, Nabendu Kumar Ghosh, Subhasish Tribedi @ Raja, Ratan Kshetrapal, Sudip Bhattacharjee @ Tilok & Suchismita Banerjee (Tribedi) @ Manu u/s 363/365/364A/120B of IPC vide chargesheet no.353 dated 07.08.2023.

4. Learned CJM, Hooghly took cognizance of the offence and after compliance of the provision of section 207 of Cr.P.C committed the case record before the learned Sessions Judge, Hooghly who in turn transferred the case record to this court for trial and disposal. On 01.04.2024, this court framed charge against the above named accused persons u/s 363/365/364A/120B IPC. Substance of

accusation was read-over and explained to the accused persons who after understanding the contents abjured their guilt and they were put on trial.

5. In the eventual trial, altogether 11 witnesses were examined by the prosecution including the complainant. Apart from oral evidence, the prosecution has also relied upon series of documents marked exhibit 1 to 15. After conclusion of trial, the accused persons were examined u/s 313 Cr.P.C and they were confronted with the incriminating materials gathered from the oral testimony of the prosecution witnesses and in reply to them various questions put to them, the accused persons denied all such facts and pleaded their innocence and false implication. No evidence either oral or documentary was adduced or produced on behalf of the accused persons.

POINTS FOR CONSIDERATION

6. a) Whether the accused persons have committed offence punishable u/s 363/365/364A/120B IPC ?

b) Whether the prosecution has able to prove its case beyond all reasonable doubts?

DECISIONS WITH REASON

7. In the instant case, complaint was lodged for kidnapping the minor son of the complainant by unknown miscreants and on the same date, victim child was recovered from the roadside at Hatni under P.S Panduah. After recovery of the child, the complainant further disclosed to the I.O that unknown miscreants demanded ransom of Rs.2 crores from him against returning his kidnapped child. Judicial statement of the complainant was recorded by the learned Magistrate on 11.05.2023 and in his statement, the complainant disclosed that two unknown miscreants kidnapped his minor child from the possession of Suman Dholey, his staff and after two hours, his minor child was recovered on the basis of information given to him over phone by a person named Kshetropal. The complainant was examined as PW-1 and in his evidence, he stated that after lodging the complaint, he received a phone call from unknown number and the unknown caller demanded ransom of Rs.2 crores and told him that his son was in the custody of that person. Within next 10 to 15mins his

another staff Nabendu Kumar Ghosh informed me over phone that a child aged about 2½ years was found on the road at China Basudebpur near Bainchi within P.S. Panduah. Said Nabendu Kumar Ghosh sent photographs of that child in his WhatsApp and he identified that boy as his son. He further stated in his evidence that Nabendu Kumar Ghosh told him that he was handing over the child to Ratan Kshetrapal for the safety. He immediately went to the spot with police and recovered his son.

8. In the instant case, all six accused persons were arrested by the I.O and they were taken into police custody except female accused. During police custody, mobile phones with SIM cards and two motorcycles were recovered on the basis of the disclosure statements of the P.C accused persons, but surprisingly during trial, no CDR or CAF in respect of the seized mobile phones were produced before the court. Out of six accused persons, the accused Suman Dholey and Nabendu Kumar Ghosh were the staff of the complainant in his computer centre. The prosecution also failed to submit any document in support of ownership of seized mobile phones. It is surprising enough that the complaint was lodged on 09.05.2023, but colour photographs of the victim child, one VIVO mobile phone and one motorcycle were recovered from the Computer Training Centre of the complainant on 19.05.2023. Said articles were still in the custody of the complainant in his Computer Training Centre from 09.05.2023 to 19.05.2023. It is also very surprising that all seizure lists, there is no signature of any independent persons including the complainant. Though some articles were seized from the office of the complainant, but in the seizure list of the said articles, signature of the complainant was not obtained. It is admitted fact that the victim child was recovered from the roadside and at that time victim child was standing alone. There is no evidence in the record to show that the victim child was in the custody of any of the accused persons prior to his recovery. There is no evidence in the record to show that the accused persons hatched up criminal conspiracy to kidnap the victim child of the complainant for ransom. Though it is alleged by the complainant that some unknown miscreants made a call and demanded ransom of Rs.2 crores against recovery of his child, but the prosecution hopelessly failed to established the same by producing CDR. During investigation, statement of PW-5 Biplob Chanda was recorded by the I.O u/s 161 Cr.P.C. In his statement, he disclosed

that prior to the alleged incident, the accused Nabendu Kumar Ghosh and Suman Dholey told him that Nabendu Kumar Ghosh had huge amount of loans and to repay the said loans, they planned to kidnap the son of the complainant Monoranjan Saha for getting ransom. He also disclosed that Nabendu Kumar Ghosh and Suman Dholey insisted him to join with them for executing their plan. During trial said Biplab Chanda was examined as PW-5 and stated before the court that he did not know anything about the alleged incident and police of Panduah P.S did not examine him and recorded his statement in connection with this case. The complaint alleged that he received a phone call from an unknown caller who demanded Rs.2 crores as ransom and disclosed that his child was in custody, but it is surprising enough that the prosecution failed to detect the caller by producing CDR of the phone number. There is no evidence in the record to show that said caller was one of the accused persons in the instant case. There is no evidence on record that the victim child was in the custody of any of the accused persons and victim child was recovered from the custody of any of them. The key witness of the prosecution was PW-5 Biplab Chanda and on the basis of his statement, other accused persons were booked and arrested, but it is unfortunate enough that PW-5 did not support the prosecution during trial and denied the fact that he gave any statement to police in connection with the incident and involvement of the accused persons in the alleged offence. PW-1, the complainant herein stated in his evidence that his staff Nabendu Kumar Ghosh told him over phone as to why Suman Dholey was taken to P.S and within next 10 to 15mins he again made a call over his phone and asked him to send photograph of his son and also informed him that one child aged about 2 ½ years was found on the roadside and forwarded photograph of that child in the WhatsApp, but it is surprising enough that the complainant did not disclose the above facts in his judicial statement recorded by the learned Magistrate after two days of recovery of his son. The conduct of the complainant and his silence on that issue raises serious doubt regarding genuineness of the incident and subsequent complaint lodged by him. He also did not utter anything against any of the accused persons except Suman Dholey. From the oral testimony of the prosecution witnesses, I did not find anything against the accused Subhashish Tribedi, Ratan Kshetrapal, Sudip Bhatteerjee and Suchismita Banerjee regarding their involvement in the alleged incident. In the instant case, conduct of the complainant was not beyond doubt and since

lodging of the complaint his conduct was doubtful. During investigation, he deliberately suppressed the fact that one of the accused Nabendu Kumar Ghosh informed him over phone that his minor child was found on the road at Hatni and his child was handed over to one Ratan Kshetrapal in safe custody. After two days of recovery of his child his judicial statement was recorded and in his judicial statement, he deliberately suppressed the above facts. In his oral testimony, he disclosed that one unknown miscreants demanded ransom of Rs.2 crores over his phone but he also suppressed the same before the learned Magistrate. In the instant case section 364A was added against the accused persons on the allegation of demand of ransom and the prosecution made a story behind such demand that the accused Nabendu had huge amount of loan in the market and to repay the said loan, he hatched conspiracy with other accused persons to kidnap the victim child of his employer Monoranjan Saha but during trial none of the witness supported the above story. Moreover, during investigation, investigating Agency failed to collect any evidence either electronic or documentary to establish the involvement and criminal conspiracy behind the alleged incident. In the instant case, manner of recovery and seizure of the materials during police remand was also not beyond doubt. There is nothing in the evidence to establish any kind of involvement of the accused Subhashish Tribedi, Ratan Kshetrapal, Sudip Bhattacharjee and Suchismita Banerjee.

9. On perusal of the evidence adduced from the side of the prosecution, it can safely be concluded that the prosecution hopelessly failed to establish the guilt of the accused persons by leading cogent and reliable evidence inconsistent with the guilt of the accused and consistent with the plea of innocence and therefore, one conclusion is inevitable that the accused persons are liable to be acquitted in the instant case.

Hence, it is,

ORDERED

that the accused persons namely Suman Dholey, Nabendu Kumar Ghosh, Subhasish Tribedi @ Raja, Ratan Kshetrapal, Sudip Bhattacharjee @ Tilok & Suchismita Banerjee (Tribedi) @ Manu are found not guilty for the offence punishable u/s 363/365/364A/120B of the IPC and they are acquitted u/s 235(1) of Cr.P.C.

The accused persons are discharged from their bail bonds along with their sureties subject to the provision u/s 437 (A) of Cr.P.C.

In compliance of the direction passed by the Hon'ble High Court, Calcutta, copy of the judgment be forwarded to the District Magistrate, Hooghly and to the Secretary D.L.S.A, Hooghly to intimate the complainant about his right to prefer appeal against the judgment passed by this court as per Proviso to Section 372 of Cr.P.C and if necessary to avail free legal assistance through the Legal Services Authority concerned to prefer an appeal.

Inform all concerned accordingly.

Dict. & correct by me.

Additional Sessions Judge
1st Court, Hooghly.

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