

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 2054 of 2009

STATE OF HARYANA ... APPELLANT (S)

VERSUS

VINOD KUMAR (DEAD) & ANR. ... RESPONDENT (S)

ORDER

1. This appeal by the State challenges the order of the High Court by which the conviction of the accused-respondent Ravinder Kumar under Section 364A IPC has been altered to one under Section 364 IPC. Consequently, the punishment of RI for life imposed by the learned Trial Court has also been altered to RI of 10 years. The appeal also seeks to challenge a similar order passed in the case of accused – Vinod Kumar. However, as the accused Vinod Kumar has died during the pendency of the present appeal, we would not be concerned with the said aspect of the order of the High Court.

2. The High Court appears to have based its order of alteration of the conviction from Section 364A IPC to Section

364IPC, solely, on the ground that there is no evidence on record to show that any Government or any foreign State or international, inter-governmental organization, was compelled by the appellants to do or abstain from doing any act, or to pay a ransom. Hence, according to the High Court, the provisions contained in Section 364-A of IPC could not have been attracted.

3. Learned counsel for the State has contended that the aforesaid understanding of Section 364A of the Indian Penal Code is plainly incorrect inasmuch as the Section as originally enacted contemplated an act of kidnapping for payment of ransom by “any person” and it is only subsequently that the words “Government or any foreign State or international, inter-governmental organization” had been inserted in Section 364A. Learned counsel has submitted that the view taken by the High Court, as extracted above, is incorrect in view of what has been laid down by this Court in Criminal Appeal No. 824 of 2013 titled as Vikram Singh @ Vicky & Anr. vs. Union of India & Ors. Reported in 2015 (7) JT 401 (Paras 18 & 19).

4. Having considered the views expressed in *Virkam Singh @ Vicky & Anr.* (supra); the provisions of Section 364A IPC and upon consideration of the arguments raised before us, we are of the view that the understanding of Section 364A IPC as manifest in the order of the High Court is not correct. The act of kidnapping for ransom by “any person” would bring such act within the ambit of Section 364A IPC also.

5. Ordinarily and in the normal course the above conclusion would require us to remand the matter to the High Court. However, in the facts of the present case we are not inclined to do so and instead take upon us the duty to scrutinize the order of the learned Trial Court.

6. Insofar as the judgment of the Trial Court holding the respondent-accused guilty of the commission of the offence under Section 364A IPC is concerned, we find that there is no conclusive finding of the Trial Court, on the basis of the evidence and materials adduced, holding the accused-responder to have committed the said offence. Nothing is disclosed in the order of the learned Trial Court as to how the

said offence has been committed and why the accused-respondent is liable for the offence. Rather in paragraph 15 of the judgment of the Trial Court there is a finding that it is the offence under Section 365 IPC which has been established against the accused. Thereafter in the ultimate paragraph of the order (paragraph 19), the Trial Court has proceeded to hold the accused guilty of commission of the offences punishable under Section 363, 364A and 365 of the Indian Penal Code.

7. Determination of criminal liability for commission of an offence would require not only a detailed consideration of the materials on record but also specific findings with regard to the act(s) attributable to the accused and the specific offence(s) that are attracted by the acts committed by the accused. In the present case, the accused-respondent has been convicted under Section 364A IPC and has been sentenced to undergo RI for life by learned Trial Court. Conviction for such a grave offence as contemplated under Section 364A IPC and punishment of life imprisonment cannot be sustained on the basis of what has been recorded by the

learned Trial Court as noticed above. We, therefore, hold that notwithstanding the errors committed by the High Court the conviction of the respondent-accused under Section 364A is not sustainable in law.

7. From the materials on record it also transpires that the accused-respondent after having served the sentence of 10 years imposed by the High Court for the offence under Section 364 IPC has been set at liberty. This was way back in the year 2009. In these circumstances, we do not propose to deal any further in the matter and dispose of the appeals in terms of the findings as recorded above and by maintaining the conviction under Section 364 IPC and the sentence imposed.

8. Consequently, in the light of the above, the appeal is dismissed in the above terms.

.....J.
[RANJAN GOGOI]

.....J.
[N.V. RAMANA]

NEW DELHI
SEPTEMBER 29, 2015

ITEM NO.102

COURT NO.8

SECTION IIB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 2054/2009

STATE OF HARYANA

Appellant(s)

VERSUS

VINOD KUMAR (Dead) & ANR.
(With office report)

Respondent(s)

Date : 29/09/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE N.V. RAMANA

For Appellant(s)

Ms. Geeta Luthra, Sr. Adv.
Mr. Ujjwal Jain, Adv.
Mr. Sanjay Kumar Visen, Adv.

For Respondent(s)

Mr. Prem Malhotra, Adv.

Mr. R.K. Gupta, Adv.
Mr. Harkesh Chand Aggarwal, Adv.
Mr. J.S. Nehra, Adv.
Mr. Vidya Dhar Gaur, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of signed order.

(Neeta)
Sr. P.A.

(Signed order is placed on the file)

(Asha Soni)
Court Master