

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 571 OF 2007

STATE OF RAJASTHANAPPELLANT(S)	
VERSUS		
BHANWAR SINGH & ANR.RESPONDENT(S)	

O R D E R

This is an appeal by the State of Rajasthan against the judgment of the High Court dated August 28, 2006 passed in S.B. Criminal Appeal No. 168 of 1988 reversing the order of conviction and sentence awarded by the trial court, after having found them guilty, under Section 366 of the Indian Penal Code.

In the facts and circumstances of the case, after going through the material on record, we are of the view that the High Court is right in holding that the charge under Section 366 could not be proved against the accused persons.

Learned counsel appearing for the State, however, submits that even if the charge does not fall under Section 366 of the Code, it will fall under Section 361 since the minor girl was taken without the consent of the lawful guardian. Learned counsel for the respondents submitted that the girl was taken with the initial consent of the parents.

We notice that the consent was given by the parents only up to 6.00 p.m. on May 23, 1985. However, the children

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were not returned as promised and they were recovered only after four days. In the above circumstances, in our view, the case would fall under Section 361 of the Code.

We find, both the accused and the first informant are distant relatives. The incident had taken place on May 23, 1985 and the accused had also remained in custody for some time. In such circumstances, in our view, the period of sentence undergone by the respondents would be sufficient sentence for the offence committed under Section 361 of the Code.

The appeal is allowed in part by holding that the respondents are guilty for the offence under Section 361 of the Indian Penal Code and their sentence is reduced to the period already undergone by them.

.....J.
(K.S. RADHAKRISHNAN)

.....J.
(DIPAK MISRA)

ITEM NO.104

COURT NO.9

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 571 OF 2007

STATE OF RAJASTHAN

Appellant (s)

VERSUS

BHANWAR SINGH & ANR.

Respondent(s)

Date: 26/04/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN
HON'BLE MR. JUSTICE DIPAK MISRA

For Appellant(s)

Mr. Shovan Mishra, Adv.
for Mr. Milind Kumar, Adv.

For Respondent(s)

Mr. K.G. Bhagat, Adv.
Ms. Neha Jain, Adv.
for Mr. Debasis Misra, Adv.

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

The appeal is allowed in part in terms of the signed order.

| (N.S.K. Kamesh)

| | (Renuka Sadana)

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| Court Master

| | Court Master

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(signed order is placed on the file)