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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 784 OF 2009

PRITAM KUMAR

Appellant(s)

VERSUS

STATE (N.C.T.OF DELHI)

Respondent(s)

O R D E R

Heard learned counsel for the parties.

This appeal is directed against the judgments of the Trial Court as well as of the High Court passed in appeal convicting the appellant for offences punishable under Sections 302 and 364-A of the IPC. For both the offences the appellant has been awarded life imprisonment together with different amounts of fine along with provision for further imprisonment in default of payment of fine.

Learned counsel for the appellant took us through the various alleged contradictions in

the statement of PW.5 and PW.6, who are the

father and mother respectively of the victim

boy, who was a student of Class IV, and was

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allegedly kidnapped for ransom and murdered by the appellant.

We find that the alleged discrepancy is of minor nature and does not affect the prosecution case at all. The prosecution case, as accepted by the Trial Court and the High

Court, is consistent on the point that initially the victim boy disappeared from the house in the morning hours after the parents left to attend their work. The missing report was lodged by the evening of that day. Thereafter, a letter demanding ransom of Rs.35,000/- was found near the door of the victim's house and according to PW.6-mother of the victim, that letter was first pointed out by the appellant and since PW.6 is illiterate, on her request it was read over to her by PW.11-Surender and then people came to know regarding the demand of Rs.35,000/- as ransom money. A minor controversy, as to whether the letter was picked up by the appellant or it was shown by the appellant and picked up by PW.6 is hardly of any consequence.

Another discrepancy highlighted by the learned counsel for the appellant is that

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according to PW.5-the father of the deceased, a part of demanded amount i.e. Rs.3,000/- was kept near the temple mentioned in the letter and PW.5 claimed that he apprehended the appellant when the appellant tried to pick up that money. On the other hand, PW.6 disclosed that she along with her husband only sighted the appellant near the temple after they kept the money but the appellant ran away when they saw him. May be PW.5 attempted to show that he is a person who was more active and almost apprehended the appellant but according to both the aforesaid witnesses, they had seen the appellant coming near the place where the money

was directed to be kept as per instructions in the letter of ransom.

In our considered view, the criticism made about the oral evidence does not carry much weight in view of other findings recorded by both the Courts below which include a finding that it was upon a disclosure statement made by the appellant that dead body was recovered from a pit in the jungle covered with stones. The other finding is based upon report of the handwriting expert available on record,

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according to which the ransom letter was in the handwriting of the appellant.

Learned counsel for the appellant criticized the impugned judgments on the ground that handwriting expert was not examined in Court and, therefore, his report should not have been accepted in evidence. In reply, learned counsel for the respondent-State has rightly placed reliance upon provisions in Section 293 of the Code of Criminal Procedure which permits such report to be used as evidence in any inquiry, trial or other proceeding. It is for the Court concerned, if it thinks fit, to summon and examine any such expert as to the subject matter of the report. No attempt was made on behalf of the appellant to persuade the Trial Court to summon the handwriting expert.

The medical evidence also corroborates the case of the prosecution that the victim boy was murdered by causing injury on the head with hard and blunt object. The timing of death, according to the Doctor, was approximately two

(Signed order is placed on the file)