

IN THE COURT OF MRS. ARCHANA PURI,
JUDGE, SPECIAL COURT,
MOHALI

Sessions Case No.01 dated 04.01.2018

Registration No.SC/0000001/2018

CNR No.PBSA01-000099-2018

Date of decision: 03.04.2018

State

Versus

Rohit @ Ram Pukar, son of Ram Jatan Paswan, resident of Ward No.5,
 Village Panchupur Rosra, Police Station: Rosra, Distt. Samstipur, Bihar, at
 present residing in house of Dharampal, Village Chatt, P.S. Zirakpur,
 Distt. SAS Nagar.

.....Accused.

FIR No.183 dated 09.08.2017

under Sections 363, 366-A Indian Penal Code

Police Station : Sohana

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Present: Shri Gurdeep Singh, Public Prosecutor for the State
 Accused Rohit @ Ram Pukar, on bail with counsel
 Sh. Jagseer Singh Jassi, Advocate.

JUDGMENT:

Accused Rohit @ Ram Pukar, has been sent up to face trial
 for the commission of offences, under Sections 363, 366-A Indian Penal
 Code, Police Station: Sohana.

2. The background facts in nutshell, are as follows:

That, complainant Gurmit Singh, son of Gurdev Singh, is resident of Village Bakarpur, P.S. Sohana and is working as an agriculturist. He has two sons and two daughters. His younger daughter prosecutrix (**name withheld**) is aged 16-17 years and is student of 12th class. She was suffering from some stomach problem for the last three days and was undergoing treatment at Govt. Hospital, Sector: 32, Chandigarh, but she did not get any relief. Now, she was undergoing treatment with private lady doctor in Phase-11, Mohali. She had recommended some tests, on account of which, the prosecutrix on 8.8.2017, had gone to Chandigarh to undergo some test. At about 10.00 A.M., the complainant had facilitated the boarding of the bus from Village Nadiali Bus Stand to Chandigarh. However, till evening, his daughter had not returned back. The complainant had searched for his daughter amongst his relatives as well as friends of his daughter and nearby surroundings, but no clue was found. Then the complainant became fully sure that his daughter who is aged 16-17, years has been enticed away by some unknown person.

3. Proceedings in the present case were initiated, on the basis of the statement got recorded by Gurmit Singh, to ASI Lakhvir Singh. Case was registered under section 363, 366-A IPC. During the course of investigation, site plan of the spot of occurrence was prepared. On 16.8.2017, supplementary statement of the complainant was recorded, on the basis whereof, Rohit @ Ram Pukar, son of Ram Jattan Paswan, was

nominated as accused. During the course of investigation, on 29.08.2017, the prosecutrix was recovered from Panipat (Haryana). Separate recovery memo was prepared.

On 29.8.2017 accused Rohit @ Ram Pukar, was arrested in the present case from Gohana Chowk, Panipat. Various memos relating to his arrest were prepared. Medical examination of the prosecutrix was got conducted. Even, the potency test of the accused was got conducted. Statement under section 164 Cr.P.C. of the prosecutrix was got recorded.

On completion of investigation, challan was presented before the Court. Copies of the challan, as envisaged under section 207 Cr.P.C. were supplied to the accused. On the basis of the report under section 173 of Cr.P.C. and the documents annexed thereto, a prima facie case made out against the accused Rohit @ Ram Pukar, under section 363, 366-A of IPC. Accordingly, charge was framed against the accused under the aforesaid sections, which was read over and explained to the accused in simple Punjabi language, to which the accused pleaded not guilty and claimed trial.

4. In endeavor to establish its claim, the prosecution has examined as many as two witnesses. PW1 is Gurmit Singh, complainant at whose instance, the proceedings of the present case were initiated and the prosecutrix herself stepped into witness box as PW2. Since the complainant and the prosecutrix (**name withheld**) have not supported the prosecution version, the recording of the statements of the remaining prosecution witnesses shall be futile exercise, which shall not improve the

fate of the case and considering the same, the Public Prosecutor closed the prosecution evidence.

5. Since there was no incriminating evidence coming forth against the accused, therefore, recording of the statement of the accused under section 313 Cr.P.C. was dispensed with. No defence evidence as such, has come on record.

6. I have heard the learned Public Prosecutor for the State as well as the learned defence counsel and perused the evidence brought on record.

7. In the light of the rival submissions made by the learned Public Prosecutor and the learned defence counsel, the point for determination, formulated in the present case is:-

A) Whether on 08.08.2017 at about 10.00 A.M. in the area of Bus Stand Nadiali, accused Rohit @ Ram Pukar, kidnapped the prosecutrix, a minor girl, out of the lawful guardianship of her parents with an intent to seduce her to illicit intercourse and thus, committed offences under section 363, 366-A IPC ?

8. In order to secure verdict of conviction for the accused, the prosecution has examined as many as two witnesses. The star witness of the prosecution is prosecutrix (**name withheld**) herself who stepped into witness box as PW2. However, the said witness while in the witness box had taken a somersault and did not support the prosecution version. She feigned ignorance, when she had stated that she does not know the

accused present in the Court today and have seen him for the first time and has come to know his name to be Rohit @ Ram Pukar. She also categorically stated that at no point of time, any untoward incident had taken place, with her at the instance of the accused. As the said witness was suppressing the material facts of the case and the role assigned to the accused, after seeking requisite permission from the Court, the said witness was cross-examined at length by the learned Public Prosecutor. Though, the said witness had stated about recording of her statement under section 164 Cr.P.C. but however, she has categorically stated that Ex.PW2/A is not her voluntary statement. It is a tutored statement at the instance of the police. While facing cross-examination at the instance of the Public Prosecutor, though the said witness had stated about having gone away from the house, but she had further explained away the same, as she was annoyed with her parents. She also stated that she stayed in the house of her relatives and then had returned back, when her parents regretted their conduct. While facing cross-examination, at the instance of learned defence counsel, she has admitted a suggestion to be correct that no untoward incident had caused with her at the instance of accused. In fact, even she has stated that her statement under section 161 Cr.P.C. was not recorded.

9. Likewise, further the prosecution has examined the complainant Gurmit Singh, as PW1. He is father of the prosecutrix. Besides deposing about his relationship with the prosecutrix, he has stated that about seven months ago, his daughter had gone to Chandigarh

to undergo some test. He facilitated the boarding of the bus from Village Nadiali Bus Stand for Chandigarh. However, his daughter had not returned till evening. He further stated that he searched for his daughter amongst his relatives, but no clue was found. He also stated that he does not know, who had taken away his daughter. He also stated about recording of his statement Ex.PW1/A, but thereafter, he had further stated that he never got recorded to the police as to who had taken away his daughter. He also stated that after 20-25 days his daughter had returned back. He also further stated that he does not know the accused present in the Court today and he has seen him for the first time and have come to know his name to be Rohit. As the witness was suppressing the material facts of the case and the role assigned to the accused, after seeking requisite permission from the Court, the said witness was cross-examined at length by the learned Public Prosecutor. He was confronted with statement Ex.PW1/B and therein he had stated that he had never got recorded any statement to the police on 16.08.2017. He had further stated that he had seen the statement Ex.PW1/B which is not his statement got recorded to the police. He was confronted with the contents of Ex.PW1/B, but he denied to have made such statement. However, nothing material elicited out vis-a-vis the conduct of the accused Rohit @ Ram Pukar.

10. In the light of the cross-examination of PW1 as well as categoric statement of PW2 prosecutrix coming forth, no incriminating role of the accused as such, is specified. At the maximum, in the light of

Ex.PW1/A it is evident that the prosecutrix was enticed away by some unknown person, but however, the prosecutrix herself had stated while facing cross-examination that she had gone away from the house, on account of being annoyed with the parents and she had returned back only when her parents regretted their conduct. In the light of the same, no incriminating role of the accused as such, is evident. Even, the statement dated 16.08.2017 which is Ex.PW1/B was put to PW1 Gurmit Singh, but however, he denied about recording of the said statement, wherein accused Rohit @ Ram Pukar, was nominated as accused. In the light of the same, there is no incriminating role of the accused Rohit @ Ram Pukar spelt out.

11. Even, much emphasis is laid on the statement under section 164 Cr.P.C. got recorded by the prosecutrix, which is Ex.PW2/A. However, it is pertinent to mention that the prosecutrix, had stated about this statement to be not her voluntary statement and the same had been got recorded as tutored by the police. Even if, the said statement is taken into consideration, it is evident that she had stated that she had gone away from the house of her own with some boy Ram. In the same, the identity of the accused as such, is not spelt out. Even otherwise, the said statement Ex.PW2/A cannot be placed above the clear and specific testimony of the prosecutrix as got recorded in the Court. It is not a substantive piece of evidence. As such, no sustenance can be drawn from this sole statement Ex.PW2/A.

12. From the testimonies of the prosecutrix (**name withheld**) and

other material witness, as detailed aforesaid, nothing specific is coming forth, to establish the necessary ingredients of the commission of offence of kidnapping of the prosecutrix with an intent to seduce her to illicit intercourse, for which the accused has been charged.

13. As such, point (A) formulated aforesaid stands answered against the prosecution.

14. Thus, in the light of the aforesaid evidence coming on the record, the prosecution has miserably failed to establish the guilt of the accused, beyond the shadow of reasonable doubt. Accordingly, while extending the benefit of doubt, accused Rohit @ Ram Pukar, is acquitted of the charges levelled against him. File be consigned to the record room.

Pronounced
03.04.2018

(Archana Puri)
Judge, Special Court,
Mohali.

'Ram Pal'
Stenographer-I

State Vs. Rohit @ Ram Pukar

Present: Shri Gurdeep Singh, Public Prosecutor for the State
Accused Rohit @ Ram Pukar, on bail with counsel
Sh. Jagseer Singh Jassi, Advocate.

Camera proceedings conducted in the present case. Statement of one PW recorded. The Public Prosecutor for the State closed the prosecution while making separate statement while stating therein that as the complainant and prosecutrix have not supported the prosecution version, the recording of the statements of remaining witnesses shall be futile exercise which shall not improve the fate of the case.

Arguments heard. Vide my separate detailed judgment of today, accused Rohit @ Ram Pukar, is acquitted of the charges levelled against him. He is ordered to execute personal bond in the sum of Rs.50,000/-, as contemplated under Section 437-A Cr.P.C, thereby undertaking to appear before the Hon'ble High Court, as and when, said Court issues notice, in respect of any appeal or revision etc, filed against this judgment. Bonds so furnished are accepted and attested. File be consigned to the record room, Mohali.

Pronounced:
3.04.2018

(Archana Puri)
Judge, Special Court.
Mohali.