

(2008) 03 P&H CK 0225

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Revision No. 228 of 1994

Kanwaljit Kaur

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: March 5, 2008

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 173
- Penal Code, 1860 (IPC) - Section 363

Citation: (2008) 2 RCR(Criminal) 428

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J

Bench: Single Bench

Advocate: M.K. Dogra, for the Appellant; Mehardeep Singh, Assistant Advocate General, Punjab, for the Respondent

Final Decision: Dismissed

Judgement

Kanwaljit singh Ahluwalia, J.

Kanwaljit Kaur wife of Gurdev Singh was tried in case FIR No. 23 dated 08.04.1991 u/s 363 IPC registered at Police Station Kotwali Faridkot.

2. Briefly stated, case of prosecution is that Dr. Jiwanjot Kaur, Registrar, Gyane Department informed Medical Superintendent, Guru Gobind Singh Hospital, Faridkot that on 8th April, 1991 in between 11 - 11.30 a.m., a new born child, who was aged 17-18 days and whose father is Jagtar Singh and mother is Paramjit Kaur, was lifted by somebody and there was suspicion that the same has been lifted by a lady, who was tall and of fair color was wearing yellow clothes. On the information so sent, FIR was lodged.

3. FIR was investigated and report u/s 173 Cr. P.C. was submitted and petitioner was charged on 10.09.1991 by the Court of Chief Judicial Magistrate, Faridkot that on 8th April, 1991 at about 11.30 a.m. she kidnapped a new born baby from the lawful guardianship of Paramjit Kaur (mother) and maternal grandmother, Mukand Kaur

and that she committed an offence u/s 363 IPC. petitioner pleaded not guilty and claimed trial.

4. Prosecution examined PW-1 Dr. A.L. Dhingra, who stated that on the information of Dr. Jiwanjot kaur, he has sent the memo for registration of the FIR. PW-2 Mukand Kaur is the grandmother of the child. Mukand Kaur specifically stated that the accused came in the Hospital pretended herself to be chief nurse and took the child with her, which was recovered after four days from the petitioner. She had identified the petitioner in Court as accused. PW-3 Jagtar Singh is the father of the child. He has stated that after four days, he along with Inspector Malkiat Singh had recovered the child from petitioner, who was apprehended at the bus stand. He appeared regarding petitioner's arrest and recovery of the child from the petitioner. PW-5 is Paramjit Kaur, mother of the child. PW-6, Dr. Jiwanjot Kaur was the Registrar of the Gyane Department. PW-7, Smt. Raj Rani was an official of the Computer Centre, Registration of fees, branch of the Hospital. PW-8, Gurjant Singh is maternal grandfather of the child and PW-9 Constable Kulwant Singh has carried out the said Special Report.

5. Both the Courts below have relied upon the evidence of the prosecution and held petitioner to be guilty. Learned Chief Judicial Magistrate, Faridkot had convicted the petitioner u/s 363 IPC and awarded one year RI and a fine of Rs, 1000/-. Appeal was preferred by the petitioner. The same was dismissed. However, sentence awarded upon the petitioner was reduced from one year to eight months. While reducing the sentence, learned appellate Court has taken into consideration the fact that petitioner was a young lady of 26/27 years and had observed that "her character and antecedents are clean." It has been submitted before me by the counsel for the petitioner that petitioner, in all has undergone 42 days out of the total sentence of eight months. It has been further stated that petitioner has not committed any offence prior to the occurrence or after the occurrence. It has been stated that petitioner has already suffered a protracted trial of 17 years. It has been urged that taking into account antecedents and protracted trial, sentence of the petitioner should be reduced to already undergone.

6. I find no justification to send the petitioner behind the bars after 17 years, when she was young lady, who is in the corridors of the Court from the last 17 years and by the afflux of time may have matured. It seems that the circumstances forced and lead her to commit the crime. Taking totality of circumstances in view, sentence of the petitioner is reduced to already undergone. However, sentence of fine is enhanced to Rs. 10,000/-. Fine shall be deposited within a period of three months from today, failing which present revision petition stand dismissed.