

## Jasram Singh Vs State of Madhya Pradesh

**Court:** MADHYA PRADESH HIGH COURT

**Date of Decision:** Jan. 10, 2017

**Acts Referred:** [Indian Penal Code, 1860](#), [Section 364A](#), [Section 364A](#) -

Madhya Pradesh Daketi Avam Vyapahan Prabhavit Kshetra Adhiniyam, 1981, Section 13, Section 13

**Hon'ble Judges:** N. K. Gupta, Anand Pathak

**Bench:** Division Bench

**Advocate:** MK Kushrestha, Dr. Anjali Gyanai

**Final Decision:** Dismissed

### Judgement

1. The appellant has preferred the present appeal being aggrieved with the judgment of conviction and sentence dated 27/11/2004, passed by

Special Judge under Madhya Pradesh Dacoity Vyapahan Prabhabit Kshetra Adhiniyam [in short "'MPDVPK Act'"], Morena (MP) in Special

Case No.75/2002, whereby the appellant has been convicted of offence under Section 364-A of IPC and Section 13 of MPDVPK Act and

sentenced to life imprisonment with fine of Rs.1,000/- and three years" rigorous imprisonment respectively.

(2) Facts of the case, in short, are that on 24/08/2002 the victim Anil Kumar Garg @ Tinku (PW2) who was son of Harish Chandra (PW4) took

a scooter MP 06/G-3110 from one Rajesh Verma (PW7) on request that he would come back within two hours. However, thereafter Anil Garg

did not come back. Raju Garg (PW1), brother of Anil tried to trace him. He rang up Rajendra Verma but he could not be traced. On 25/08/2002,

Raju Garg (PW1), Rajendra Verma (PW7) Girraj Mangal (PW3) and Satendra went to village Kotwar with a jeep to know about the arrival of

Anil Kumar to that village on the previous day. Thereafter, a missing report was lodged at Police Station Kotwali, Morena which was written in

Rojnamcha Ex.P/3. Sub-Inspector B.S.Yadav(PW9) started the missing inquiry and found that the appellant Jasram Singh abducted the victim

Anil Kumar Garg @ Tinku and managed to hand him over to one gang of Pappu @ Ramsevak Gurjar. Hence, on the basis of enquiry report, a

crime was registered with a document Ex.P/6 on 26/08/2002. On 14/10/2002, an encounter took place between the police party and the gang of

Pappu @ Ramsevak Gurjar, in which the victim Anil Kumar came towards the side of the police party and introduced himself so he was

recovered. But some of the persons like Lalla Gurjar, Veera Pandit, Suresh Gurjar and Ramvaran Gurjar who took him in a jungle, were killed in

the encounter. It was informed by Anil Kumar that he was kept in the jungle for 50-51 days. He was beaten; various parts of his body were burnt

so that he would be forced to demand note of Rs.25 lacs to his father and brothers. The investigating officer arrested the appellant and after due

investigation, the charge-sheet was filed before the Special Court.

(3) The appellant abjured his guilt. However, no specific plea was taken by him and no defence evidence was adduced.

(4) According to the appellant, when he read the news of encounter he himself appeared before SHO Surendra Singh of Police Station Malanpur.

(5) After considering the prosecution evidence, the trial Court has convicted and sentenced the appellant, as mentioned above.

(6) We have heard the learned counsel for the parties.

(7) In the present case, it is alleged by Raju Garg (PW1), Anil Kumar (PW2), Girraj Kumar (PW3), Harish Chandra (PW4) and Rajesh Verma

(PW7) and Ramesh Chandra (PW8) that the victim Anil Kumar went to Rajesh Verma and obtained his scooter so that he could visit the village

Kotwar and bring some labourers for his work. It was the defence of the appellant that the victim Anil Kumar had hidden himself for 51- 52 days

due to family dispute and thereafter, upon reading the news of encounter, he appeared before the police and a false case was created against the

appellant. However, looking to the evidence of Anil Kumar (PW2), Rajesh Verma (PW7) and Ramesh Chandra (PW8), it is clear that Anil

Kumar took the scooter of Rajesh Verma and thereafter, he visited the office of Ramesh Chandra (PW8) and ultimately, he left the village Kotwar.

There is no reason to disbelieve the testimony of witnesses Rajesh Verma and Ramesh Chandra. It would be clear from the statements of these

witnesses that Anil Kumar took the scooter of Rajesh Verma to visit the village Kotwar.

(8) Though a plea was taken by the appellant that the victim Anil Kumar had hidden himself for 50-51 days due to family dispute but it was not

mentioned to any of the witnesses, like Raju Garg (PW1), Harish Chandra (PW4) or Anil Kumar (PW2) about the facts of the family dispute so

that the victim- Anil Kumar would have hidden himself from his family members. On the other hand, it would be apparent from the evidence given

by Raju Garg (PW1), Girraj Kumar (PW3) and Harish Chandra (PW4) that Anil Kumar was searched on not returning. Even when these

witnesses went to village Kotwar in a vehicle in search of victim Anil Kumar, they could not get any trace. Statement of Raju Garg (PW1) is

confirmed by Rajesh Verma (PW7) that Raju Garg contacted him on telephone to know the whereabouts of victim- Anil Kumar. Under these

circumstances, where no family dispute of Anil Kumar could be proved by appellant Jasram Singh testimony of these witnesses cannot be

discarded that Anil Kumar who went to village Kotwar to fetch some labourers, was abducted.

(9) According to Anil Kumar (PW2), when he was going to village Kotwar, the appellant Jasram Singh met him near the over bridge in the city of

Morena and since he was known to victim- Anil Kumar he took a lift on the scooter driven by Anil Kumar because he told that he had to visit the

village Kushwah Ka Pura to recover some amount from someone. When Anil Kumar and the appellant went to village Kotwar, Anil Kumar could

not get any labourer and, therefore, the appellant suggested him to visit village Kushwah Ka Pura so that the appellant would recover the loan

amount and he would arrange for labourers so that Anil may be benefited. In village Kushwah Ka Pura the appellant stopped the scooter near a

field and told the victim Anil Kumar to stay with three- four persons and he left for the village. After some time when the appellant did not come

back then Anil Kumar asked those persons about the appellant Jasram Singh and they took him to the forest and thereafter, hands of the victim

Anil Kumar were tied with a scarf. He was beaten and taken into the forest. According to the victim Anil Kumar, those four culprits were namely

Lalla Gurjar, Veera Pandit, Suresh Gurjar and Ramvaran Gurjar. In the evening, Suresh Gurjar and Pappu Gurjar came with a mouser rifle and

they kept Anil Kumar with them for 50-51 days. They burnt his back and nails of feet and hands. They were demanding a ransom of Rs.25 lacs

and pressurizing him to send ransom note. He has accepted that pinna ears was penetrated and hole was made on the pinna. His hair was

swabbed so that he could not be identified by any one. On 14/10/2002, an encounter took place between the culprits and the police party and

thereafter, victim- Anil Kumar, who was hidden, went towards the police and told about his identity. Thereafter, he was taken by the police and a

recovery memo Ex.P/1 was prepared.

(10) Constable Sarvesh Singh (PW6) who participated in the encounter has accepted that in encounter three - four culprits were killed and one

person was lying at the spot who told his identity to be Pinku Garg @ Anil Kumar and, therefore, he was taken with the police party and a

recovery memo Ex.P/1 was prepared by SHO Santosh Singh Bhadoriya. On a detailed cross-examination nothing could be obtained. Testimony

of constable Sarvesh Singh is corroborated the evidence given by abductee Anil Kumar Garg(PW2). In this connection, FIR Ex.P/6, was timely

lodged and it is clear that the abductee Anil Kumar Garg remained absent from his house in the period between 24/08/2002 to 14/10/2002. Such

a period of approximately more than one-and-a-half months where a timely missing report was lodged as Ex.P/3 on 25/08/2002. The defence

taken by the appellant cannot be accepted that the abductee Anil Kumar Garg was was not abducted or he had hidden himself due to some family

reasons. Hence, the trial Court has rightly found that Anil Kumar Garg was abducted and he could be recovered after an encounter with some

dacoits.

(11) Learned counsel for the appellant has submitted that there was no participation by the appellant. He immediately reached to the police station

when he read the news of encounter that his brother was killed in the encounter. However, that act of the appellant does not show his fairness. He

would have approached to the police due to guilty conscious. No enmity between the appellant and the abductee Anil Kumar Garg could be

proved to show that Anil Kumar Garg could implicate the appellant falsely. When police had achieved the target of killing four-five culprits as

dacoits then police would not have an interest to implicate the appellant just to increase gravity of the case. Similarly, if there was no role of the

appellant in abduction of Anil Kumar Garg then there was no reason with Anil Kumar Garg to speak against the appellant. Under these

circumstances, in absence of any enmity or other reason, testimony of Anil Kumar Garg against the appellant cannot be discarded. Anil Kumar

Garg wanted to visit village Kotwar to get some labourers and thereafter, on insistence of the appellant he visited village Kushwah Ka Pura. The

appellant directed the abductee Anil Kumar Garg to stay for four-five days and left him. Thereafter, those four-five persons did not release him.

On the other hand, he was taken into the dense forest and abducted. It is also stated by Anil Kumar Garg that in the period of 51- 52 days of his

confinement the appellant often visited to the place where he was hidden and pressurized him to write down a demand note for a sum of Rs.25

lacs. On the basis of his statement given by Anil Kumar Garg, it is proved beyond doubt that the appellant had participated in the crime of

abduction and he abducted victim Anil Kumar Garg by giving him an assurance that he would get labourers at village Khushwah Ka Pura. It is

clear from the statements of Raju Garg (PW1), Harish Chandra (PW4) and Girraj Kumar (PW3) that after disappearance of abductee Anil

Kumar Garg his relatives visited village Kotwar in his search but since the appellant took the abductee Anil Kumar Garg to village Kushwah Ka

Pura, therefore, no information could be received from village Kotwar and even the scooter could not be traced.

(12) Learned counsel for the appellant has submitted that the prosecution did not prove that any demand of ransom was made by the appellant or

other culprits and, therefore, this kidnapping was not done for purpose of demanding of ransom. However, looking to the facts and circumstances

of the case, such contention cannot be accepted. Family of the abductee Anil Kumar Garg was a rich family. There was no enmity between the

abductee Anil Kumar Garg and the appellant. In stay of 50- 51 days the culprits did not kill the abductee Anil Kumar Garg and, therefore, the

victim Anil Kumar Garg was not abducted due to any enmity or any other reason. Since Anil Kumar Garg was a rich person, the appellant Jasram

Singh handed over him to the culprits and he was kept for 50-51 days by the culprits. Therefore, looking to the conduct of the appellant a

presumption may be drawn that the abductee Anil Kumar Garg was abducted only for demand of ransom.

(13) In this connection, the judgment passed by the Apex Court in the case of ""Malleshi Vs. State of Karnataka"" [ AIR 2004 SC 4865] in which it

is laid that there are mainly three ingredients to prove the prosecution's case for offence under Section 364-A of IPC. First is that the accused

must have kidnapped, abducted or detained by any person. Secondly, he must have kept by such person in custody or detention and third,

kidnapping, abduction or detention must have been for ransom. To pay ransom in the manner since means to pay the price or demand for ransom

this would show that the demand has to be communicated. However, it is not laid by the Apex Court that if object of abduction is otherwise

proved then demand should be proved specifically. Also in the case of "" Akram Khan vs. State of West Bengal "" [AIR 2012 SC 308] it is laid

that if it is established that the offender after kidnapping a person keeps the said person in detention or threatens to cause death or hurt in order to

pay ransom, undoubtedly Section 364-A of IPC is attracted.

(14) In the present case, it is established beyond doubt that there was no purpose of abduction except to receive ransom. The abductee Anil

Kumar Garg was kept for 51- 52 days so that ransom may be demanded. Anil Kumar Garg has stated that his back was burnt and other torturous

activities were done with him. He would not have written a demand note to his father. It would be apparent that the appellant was known to the

abductee Anil Kumar Garg and his family and, therefore, if he would have taken that demand note, then he could be located as a culprit but since

he was not a declared dacoit and he was enjoying a life of blamed civilian. Therefore, he did not give any demand note to the family of Anil Kumar

Garg. If he was not guilty conscious then there was no necessity for the appellant to visit the police station soon after the encounter in which his

brother was killed and the abductee Anil Kumar Garg was rescued. Under these circumstances, abduction of victim Anil Kumar Garg was done

for demanding the ransom. It is possible that ransom was demanded and since Harish Chandra (PW4) and Raju Garg (PW1) were in contact with

the police the culprits who kept the abductee Anil Kumar Garg were encountered by the police on the information given by the family members of

Anil Kumar Garg and, therefore, it is possible that family of Anil Kumar Garg and police may not have disclosed about the fact of getting a demand

note. However, it is proved beyond doubt that the appellant abductee/victim Anil Kumar Garg and handed him over to the known dacoits for

demand of ransom and, therefore, his purpose for abduction was to get ransom from the family members of Anil Kumar Garg. The trial Court has

rightly convicted the appellant for offence under Section 364-A of IPC.

(15) When offence under Section 364-A of IPC is proved then having similar ingredients of offence under Section 13 of MPDVPK Act is also

proved and it was committed by the appellant. So far as the sentence is concerned, the minimum sentence is recorded by the trial Court for offence

under Section 364-A of IPC whereas the minimum sentence was prescribed for offence under Section 13 of MPDVPK Act. The appellant has

already undergone the sentence of offence under Section 13 of the MPDVPK Act and, therefore, there is no need to modify such sentence.

Hence, there is no need to interfere in the order of sentence passed by the trial Court.

(16) On the basis of aforesaid discussion, the appeal filed by appellant Jasram Singh has no substance and, therefore, it cannot be accepted.

Consequently, the same is hereby dismissed.