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CASE COMMENTARY – SHAIK AHMED V. STATE OF TELANGANA (2021)

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I. Abstract:

On the increasing technologies and the mankind the crimes also advanced and grown to new methods as the crime in talk, the kidnapping also one of the important and the most common crime out there which also gets new and improved as the days moving. Back to 1673, the kidnapping was originated by the American Colonies which carried out the practice of stealing children for selling them as slaves and laborers. In the olden days the kidnapping was only done to make the children as slave. The word in its meaning has two parts kid and the napping which means stealing or snatching the kid for some benefits. The ways the crime happens was purely by the thinking capacity of the criminal or the motive of the kidnapping. If the main motive of the kidnap was for ransom, then the high profile, high earning capacity people would be targeted and they leave the rest others. As the growing period of era, the most common kind of kidnap was kidnapping for ransom. Kidnapping for ransom is one of the main method were the kidnappers ask for money to the victim’s family, relatives, friends and the office employer in order to handover the kidnapped person. So as the period evolves and the crime evolves, the judicial also should get evolved and equipped for facing the future of crimes, thus this case would bring out the advanced judicial in the crime of kidnapping.

II. Keywords: Kidnapping, crime, judicial, IPC, Evolves, judgement, case, commentary, victim, criminal

Diary Number:	8048 / 2020
Case Number:	CrI.A. No.-000533-000533 / 2021
Petitioner Name:	SHAIK AHMED
Respondent Name:	STATE OF TELANGANA
Petitioner's Advocate:	Pai Amit
Bench:	HON'BLE MR. JUSTICE ASHOK BHUSHAN, HON'BLE MR. JUSTICE VINEET SARAN, HON'BLE MR. JUSTICE M.R. SHAH
Judgment By:	HON'BLE MR. JUSTICE ASHOK BHUSHAN
Date:	28 Jun, 2021



III. Introduction:

On 28th June, 2021 the case of Ahmed Shah v State of Telangana was decided by the bench of Justice R Subhash Reddy and Justice Ashok Bhushan by the Supreme court of India. The offence of Kidnapping for Ransom was the main crux of this case where the supreme court of India stated that - No conviction under Section 364A of Indian Penal Code, if kidnapper treats victim in "a good manner". In the case of Shaikh Ahmed v State of Telangana, the supreme court decided that the kidnapping for ransom is proven only if it comes under the section 364A of Indian Penal Code, where the section 364A should be satisfied fully of all its provisions in the manner beyond the doubt of the prosecution.

IV. Facts of the case:

The case's facts centre on Prateek Gupta, a sixth-grade student who was abducted by an auto driver and held captive for ransom. Prateek Gupta, the victim in this incident, was a sixth-grade student at St. Mary's High School in Hyderabad. The address of Prateek's school was Regimental Bazaar in Hyderabad. In the early afternoon of February 3, 2011, Prateek returned to his school from a picnic that had been organised by his school. Prateek's parents had set up a regular car for him, which would regularly pick him up from school and bring him home. Unfortunately, the car that Prateek's parents had fixed did not show up on February 3, 2011. Prateek's parents had set up a regular car for him, which would regularly pick him up from school and bring him home. Unfortunately, the car that Prateek's parents had fixed did not show up on February 3, 2011. After an hour of waiting for his car, Prateek made the decision to call his father on Kumari Sujata Rani, one of his school teachers, using her mobile. Prateek's father gave him instructions to take another car to get home during their talk. In accordance with his father's instructions, Prateek boarded the auto that Shaikh Ahmed Khan, the accused, was driving to take him home. After travelling a short distance, Shaikh Ahmed Khan led Prateek

to an unidentified location. When Prateek questioned the accused about it, Ahmed Shaikh said that it was a shortcut, assuring Prateek that he would drop him off at his house right away and telling him not to worry about it. The accused drove Prateek to his sister's home while promising to return home the following morning. Prateek's father's phone number was taken by Ahmed Shaikh, who said he needed it to call the man to confirm his home's address. The accused called the father of Prateek and informed him that Prateek was in his possession and that in order to free him, he needed to pay a ransom of Rs. 2,000,000. Ahmed answered the accused's call after hearing it. Shaikh, Prateek's father, made the decision to file a police station report. The father of Prateek went to the police station and reported Ahmed Shaikh. After filing the report, the police officer turned over the matter for additional investigation. The accused gave the accused's father instructions to walk to Pillar No. 99, P.V. Narsimha Rao Stadium. When Prateek's father arrived at the specified place carrying the ransom money with him, Ahmed Shaikh, the accused, was already there with Prateek. Ahmed Shaikh was arrested by the police officers who were on the scene wearing mufti covers as Prateek's father attempted to give the accused the Rs. 2,000,00 ransom money. Prateek was discovered inside the car on a short distance of the accused. After carefully examining all of the testimony and evidence, the learned Sessions Judge ruled that Ahmed Shaikh had been found guilty of the crime of kidnapping for ransom as defined by Section 364A of the Indian Penal Code and sentenced him to life in prison and a fine of Rs. 5,000. The prosecution established Ahmed Shaikh's guilt of the crime of "Kidnapping for Ransom" beyond a reasonable doubt, and the High Court dismissed the accused's appeal on the grounds that Ahmed Shaikh must now face punishment for the crime.

V. Issues:

There were four issues been raised in the court



- If section 364A of IPC gives down the basic essentials for the Kidnapping, then what are the essentials
- If the section 364A IPC gives the basic essentials then whether all the essentials of the crime kidnapping should be proven for the doubt of the prosecution.
- If there is any convention under the section 364A of IPC and it doesn't meet the essential ingredient of that section, then it violates the section 364A
- Whether the Judge and High Court recorded any of the evidence and finding that the kidnappers used to threaten the victim to hurt or cause hurt or any of the conduct of a reasonable apprehension given by the accused to putting the victim to cause harm or cause death.

VI. Arguments:

The appellant side, learned council stated that all the provisions of the section 364A and all the necessary ingredients provided by the section should be proved beyond all the doubts of the prosecution where in this case it doesn't satisfy all the reasonable doubts of the prosecution under the section 364A IPC, thus the accused conviction was not sustainable. The Council for the Appellant side also argued that the court had not established any proof that the accused had threatened the victim with harm or death and that Ahmed Shaikh's actions had not given rise to a reasonable suspicion that the victim might be killed or injured. Additionally, it was said that the victim, Prateek Gupta, has admitted that the accused did not make any threats against his life or physical harm. Additionally, Prateek's father stated during the recording of the prosecution's witness testimonies that the kidnapper had treated his son nicely. In light of this, the Learned Sessions Judge and High court needs the justification.

VII. Judgement:

The following must be proven in order to convict an accused person under Section 364A:

kidnapping or abducting a person, or holding a person in detention after such kidnapping or abduction, and either:

- (a) threatening to kill the person, or
- (b) making the person reasonably fear that he or she will be killed or injured by his or her conduct; or
- (c) inflicting harm or death on the person in order to compel the Government,

the court noted that if the first condition is established, there is still one more requirement to be met because, following the first condition, the "And" is the word used. As a result, either condition (ii) or (iii) must be proven in addition to the first requirement. The court ruled that the Sessions Judge's findings did not demonstrate that requirement (ii) had been satisfied. The High Court has not addressed the arguments the accused brought before it. The victim was not considered to have been assaulted by any evidence found by the court. There was no justifiable concern that the victim may be harmed or killed. The second criteria of Section 364A was not proven to be met by the evidence in the record. The Section 364A conviction and sentence were overturned. He was found guilty of a kidnapping offence under section 363. The court changed the Sessions Judge's decision. the High Court, and. They imposed a seven-year prison term on the appellant as well as a fine of Rs. 5,000.

VIII. Conclusion:

In accordance with Section 364A of the IPC, there are three stages: kidnapping or abduction; the threat of death or bodily harm made by the kidnapper in conjunction with the demand for ransom; and the third stage, which occurs when the ransom demand is not met and results in death or bodily harm. Therefore, the prosecution must establish all the elements/conditions specified in Section 364A of the Indian Penal Code beyond a reasonable doubt in order to convict an accused under Section 364A of the IPC.



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