

SUPREME COURT OF INDIA

Prabhat Ranjan Sarkar

Vs.

Paras Nath Verma

Crl.A.No.48 of 1967

(S. M. Sikri, C.J.I., and P. Jaganmohan Reddy, J.)

29.01.1971

JUDGEMENT

SIKRI, C. J.:-

1. This appeal is from the judgment and order dated February 13, 1967 of the Patna High Court, dismissing Criminal Revision No. 145 of 1967, in limine. The respondent, Paras Nath Verma, Advocate, had filed a complaint on October 15, 1966, against the appellant, Prabhat Ranjan Sarkar, and eight others alleging, in brief, that the appellant and the other accused persons, who called themselves "Anand Margis"- followers of Anand Marg- had kidnapped his younger brother aged 15 years. It appears that the complainant had allowed his younger brother to do some guard duty with the appellant and the other accused for a day or so but as his brother did not return home till October 12, 1966, the complainant saw accused No. 1, Shashi Bhusan Verma, and the other accused and asked about his brother and his whereabouts. The accused persons, apart from the appellant, told him "to give up the hope of getting back your brother." Accused No. 1, the appellant, took him aside and told him that "now you cannot get him back inspite of vigorous attempts (to trace him out). The services of such boys are very much required for our (Anand) Marg." The cycle of his brother was returned to the complainant. The complainant then sent one man to Jamalpur who, on return, reported that when he made enquiries there they said that "it was forbidden by their 'Marg'

(Organisation) to give out the trace of anybody, and that this was the direction of the 'Baba'. The complainant also gave a statement before the Magistrate to the same effect. He added that he had no previous dispute, litigation or differences with any of the accused persons.

2. A petition was filed before the Magistrate purporting to have also been signed by the boy, Treta Nath Verma, that the boy had been returned to the father. The Magistrate took cognizance of the offence under S. 365, I. P. C., and transferred it to the file of Shri Ekka, Judicial Magistrate, First Class, Motihari.

3. Two criminal revisions were filed against the order of the Sub-Divisional Magistrate in the Court of Sessions. One criminal revision was by the present appellant and the other by the other accused. Only one point was urged before the learned Sessions Judge and that was that in the circumstances of the case the allegations did not make out any offence of kidnapping, and therefore the proceedings deserved to be quashed. It was urged before him that the boy had been taken with the consent of the complainant and the fact that he had been detained thereafter for longer period would not bring the case within Section 365, I. P. C. The learned Sessions Judge, however, rejected the revision petition. He held that he could not persuade himself to take the view that no offence whatsoever was made out on the allegations made by the complainant.

4. Two revisions were filed before the High Court, one by the present appellant and the other by the other accused, and they were dismissed in limine.

5. Two special leave petitions were filed against the order of the High Court. This Court refused leave to the other accused but gave leave to the present appellant.

6. Two points were raised before us; one that on the allegations there was nothing to connect the appellant with kidnapping, and secondly that the age of the kidnapped boy was almost 18 years. For this purpose an admission card for entry to the examination hall was purported to be relied on.

7. We are unable to agree with learned counsel for the appellant that there is no evidence to connect the appellant with kidnapping. There is a clear allegation in the complaint and in the further statement that the messenger of the complainant was informed at Jamalpur that the boy would not be given back and the appellant is alleged to have been present at that time. We do not want to prejudice the trial of the accused by saying anything more except that it is not a case in which we should interfere in special leave.

8. Regarding the second point raised before us it would be for the Magistrate to determine what was the age of the boy at the time of the alleged kidnapping.

9. In the result the appeal fails and is dismissed.

Appeal dismissed.