

**State Vs. Ashok Kumar Jain**

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**Court :** Delhi

**Decided On :** Sep-09-2014

**Judge :** Pradeep Nandrajog

**Appellant :** State

**Respondent :** Ashok Kumar Jain

**Judgement :**

\$~6 \* IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.L.P. 17/2014  
STATE Represented by: ..... Petitioner Mr.Varun Goswami, APP for the State with  
Inspector V.N.Jha, ATO/South Rohini. versus ASHOK KUMAR JAIN Represented  
by: ..... Respondent Mr.B.S.Rana, Mr.Vijender Bhardwaj and Mr.Satyam Sisodia,  
Advocates. CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE  
MS. JUSTICE MUKTA GUPTA

**ORDER**

0909.2014 % 1. By the present petition the State seeks leave to appeal against the impugned judgment dated August 31, 2013 whereby Ashok Kumar Jain has been acquitted for the offence punishable under Sections 307/452/506/342 IPC.

2. The case of the prosecution is that on September 11, 2008 SI Yashpal along with Constable Satya Parkash while returning after attending a call of DD No.42B reached at D-12/68, Sector-7, Rohini where they found a large gathering and public persons were beating a person. Constable Moolchand was already present

there who was trying to save the said person. They removed the public and found Rishi (later on told his name as Ashok Kumar Jain) was being beaten.

3. Rajni came forward and made a complaint that at about 12.30 somebody knocked the door of their house. When she opened the door she found one persons who told his name as Ashok standing with a sweets box in his hand. She tried to talk to her husband but the phone was found disconnected. Suddenly the said Ashok stopped her, dragged her inside by holding her hairs. He threatened her to kill. When she tried to run away he tied her legs, hands and mouth and gave beatings by his shoes. He also attacked her on her hand with a knife. In the meantime, she heard the noise of knocking of the door. Her nephew Mohit came inside after breaking the door when Ashok tried to run away from there.

4. The learned Trial Court acquitted the respondent primarily on the grounds that there were material improvements in the testimony of Rajni; though she alleges that she was attacked by a knife and Ashok was apprehended on the spot however, no knife was recovered and no independent witness from the public was joined though it is the case of the prosecution that accused was apprehended when large public had collected.

5. Rajni deposed before the Court that on September 11, 2008 at 12.30 PM she was present at her house D-12/68, First Floor, Sector-7, Rohini, Ashok Kumar Jain knocked the door of her house and told her that he wants to give the box of sweets as he was blessed with a son. She asked Ashok Kumar to deliver the same to her husband at the office but he told that he had been sent by her husband Raj Kumar Singhal at his resident as he had gone to Panipat. She opened the door and took the box of sweets from Ashok Kumar Jain. When she tried to close the door he asked for a glass of water. As soon as she went for taking the water Ashok Kumar entered the house and after taking water he said that he wanted to use the toilet. He went inside. Rajni made a call to her husband and informed that somebody had come to their house to give sweets box. She gave the landline phone to Ashok Kumar Jain to talk to her husband and went to the balcony. Thereafter Ashok Kumar Jain stated that her husband wanted to talk to her. She told him that he should go and she will talk to her husband later on, however, he stated that her

husband had some emergency. She took the phone but found the same disconnected. In the meanwhile, Ashok Kumar put his one hand on her mouth from the other hand caught hold of her hair and dragged her inside the room. She bit the hand of Ashok Kumar Jain. When she asked him what he was doing, he stated that he had come to kill her. Ashok had a knife with which he attacked her. She stopped the assault with her left hand and thus received an injury. He dragged her inside the room and put the tape on her mouth and also tied her hands and legs with the cloth. She however, managed to open her hands and legs, on this Ashok gave her beatings and again tied her hands. He asked her to hand over the jewellery and cash. He kept his knees on her neck and sat down on her while giving slaps. He dragged her to the outer room where almirahs were kept and opened the almirah by taking the keys from her. When he was about to open the door of the locker her nephew reached and knocked the door. She shouted Mohit on which Ashok pushed her on the floor and kept his shoe on her mouth. Thereafter he again dragged her in the inner room and gave beatings. She became unconscious and blood scattered in the house. When she regained consciousness she found the outer door had been broken, Mohit and Gaurav were present and Ashok Kumar Jain ran away from the roof of the house after opening the door. Ashok Kumar Jain hid inside a godown of Namkeen Shop from where he was taken out by the public and beaten. Police came at the spot. Media also reached the spot. Police recorded Rajni's statement and she was medically examined. She alleged that the accused had taken away her jewellery.

6. As per the MLC Rajni received two grazed abrasion on the left side of the neck, bruise over chin and abrasion over the nose. She had lacerated wound on her left thumb. The case of Rajni was that she was given injury by knife however, the injury on the left thumb was a lacerated wound and not an incised wound. No MLC of Ashok has been placed on record though it is the case of Rajni that she had given a bite mark and the public had beaten him. As per Rajni, Ashok was carrying a knife and had taken away the jewellery. Ashok was apprehended near the spot however, neither the knife, the alleged weapon of offence, nor the jewellery was recovered at his instance. Further in her statement, on the basis of which FIR was registered, it was stated that the phone was not working as she could not speak to her husband which is contrary to her deposition before the Court. As per Mohit the

t-shirt of Ashok was blood stained however, no blood stained shirt had been recovered.

7. The defence of Ashok is that he was innocent and falsely implicated in the present case at the instance of the husband of the complainant. Considering the improvements in the version of the complainant, nonrecovery of the knife and jewellery, non-association of the independent witness from the public, non-producing of the MLC of Ashok Kumar Jain, non-recovery of tape, rope or box of sweets from the spot, we are of the considered opinion that the view taken by the learned Additional Sessions Judge was a plausible view and no interference therein is required. Consequently, the leave petition is dismissed.

8. T.C.R. be sent back. PRADEEP NANDRAJOG, J.

**MUKTA GUPTA, J.**

SEPTEMBER09 2014 vn

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