

indu Arora Vs. State

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Court : Delhi

Decided On : Nov-01-1988

Reported in : 1989(16)DRJ79

Judge : H.C. Goel, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 120B and 302; [Code of Criminal Procedure \(CrPC\), 1973](#) - Sections 161

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 1335 of 1988

Appellant : indu Arora

Respondent : State

Advocate for Pet/Ap. : B.S.C. Singh,; Bharat Dubey,; J.L. Kalra and;

Judgement :

H.C. Goel, J.

(1) This is a bail application of Indu Arora accused- petitioner in the case Fir No. 100 dated June 24, 1988 of Ps Inder Puri under Section 302 read with Section 120B of the Indian Penal Code. The prosecution case stated briefly is that Indu Arora was married to Harish Arora in the year 1980. They had two children-one son Sunny by name aged about 6 1/2 years and a daughter Shikha about 3 1/4 years old. Ajit Seth, co-accused of the petitioner, was an immediate neighbour of

the petitioner. Indu Arora had developed extra marital relations with Ajit Seth, her co-accused. Sunny, the son of Indu Arora and Harish Arora, was getting tuition from one Mrs. Bali whose house was situated at some distance from the house of Indu Arora. Shikha was also made to join the nursery class at Mrs. Bali's school on June 24, 1988. It was done as per the wishes and insistence of Indu Arora who had represented that Shikha should be given tuition by Mrs. Bali by admitting her in regular nursery class. Harish Arora, father of the two children, dropped the children at the residence of Mrs. Bali at about 9.30a.m. on June 24, 1988 by his car. Sunny used to return home after tuition from Mrs. Bali's house on foot. However, on June 24, 1988 Mrs. Bali arranged to send them in a cycle rickshaw of one Babu Lal. Ajit Seth met the children while they were being taken to their home in the cycle rickshaw. The children recognised him and used to call him 'Ajit' uncle as he was a frequent visitor to their house. On the asking of Ajit Seth, Babu Lal allowed Ajit Seth to take away both the children on his motor cycle. Ajit Seth, however, drove his motor cycle in a direction other than the one in which the house of Indu was situated. Babu Lal felt somewhat suspicious on that. He came back to the house of Mrs. Bali and told the same to Bhawna, her daughter, Mrs. Bali being not present there at that time. Bhawna in turn told the same to Mrs. Bali at the house of Mrs. Malhotra where the latter had gone. As the children did not reach back home Indu Arora went to the house of Mrs. Bali at about 12.30 p.m. to enquire about the children. She was then told by Mrs. Bali about Ajit Seth having taken away the children in the said manner. Indu Arora then rang up her husband at his shop in Bhagirath Place at about 1.45 p.m. and informed him of what had been told to her by Mrs. Bali. Harish Arora, husband of Indu Arora, met Indu Arora outside the house of Mrs. Bali at about 2.30 p.m. Some time before that Indu Arora, petitioner, had gone to the house of one Prema who had earlier worked at the house of Aroras for a pretty long time and made search for the children in the locality accompanied by Prema. Some anonymous person informed the Pcr Van at 1 1.58 a.m. that two children had been burnt by someone at Pusa Park, Inder Puri, New Delhi. Acting on this information the police reached there. They learnt that both the children had already been removed by the Pcr Van to Ram Manohar Lohia Hospital. Shikha was unable to make a statement as she was in a precarious condition. The police made enquiries from Sunny. Sunny told the

Investigating Officer that Ajji (Ajit Seth) whose address was given by him had taken them on his motor cycle in the morning and had set them on fire after tying them in a room. Shikha died at 2.15 p.m. on the same day. Sunny also succumbed to his injuries on June 25, 1988 mid day. Indu Arora and her husband, Harish Arora, came back to their house from in front of the house of Mrs. Bali where they were told that the police had come to make some enquiries. They both went to the police station, Paschim Vihar, New Delhi. There Inspector Mahesh Chand Sharma, Sho, Paschim Vihar told them that their children were involved in an accident and they were admitted at R.M.L. Hospital. They accompanied by Inspector Sharma went to the hospital. A detailed statement of Harish Arora under Section 161 Criminal Procedure Code . was recorded by the Investigating Officer at the hospital. Harish Arora narrated about his children having been dropped by him at the house of Mr. Bali and about the affair that Ajit Seth had with his wife, Indu Arora, petitioner. He also stated to the police that Ajit Seth had given a threat to him and had told him that he could do any thing to get Indu. He also stated that Ajit Seth had also told him that if he (Harish Arora) come in his way he would put an end to his children so that he is able to marry Indu. He stated that Ajit Seth had put the children to fire to finish them so that he may be able to marry his wife after causing a lot of pain to him as he had threatened earlier. Ajit Seth, co-accused of the petitioner, was arrested in this case on June 24, 1988. A supplementary statement of Harish Arora was recorded by the police on June 26, 1988. In this statement he narrated the facts and circumstances to the police as a result of which he stated that he was convinced that his wife Indu Arora had got the two children killed by getting them burnt in conspiracy with Ajit Seth. The circumstances stated by him are that Indu Arora had developed intimacy with Ajit Seth. She had told him that Sunny should be got admitted to some boarding house to which he had declined and there was an altercation between him and his wife on that. Indu also did not inform him about the two children having not reached back home until 12.30 p.m. and she rang him up late to inform that as the telephonic call was made to him at 1.45 p.m. It was also stated that Indu Arora did not report the matter to the police despite suggestion given to her by Mrs. Bali (This suggestion was given to the petitioner by Mrs. Bali at 2.30 p.m.). On the basis of this statement of Harish Arora the petitioner was arrested in the case.

According to the prosecution some other facts and circumstances were found during the investigation of the case which went to show that the murder of the two children had been committed by Ajit Seth in conspiracy with the petitioner, Indu Arora.

(2) The circumstances as relied upon by the prosecution briefly stated are the fact that Indu Arora, petitioner, had developed illicit relations with Ajit Seth and had given out that she could do any thing to be able to marry and live with Ajit Seth. Indu Arora had given out to relations that she was not bothered about Sunny as she suspected that he used to spy the meetings between Ajit Seth and the petitioner as he used to convey information about the same to his father, Harish Arora, and his grand mother. The suggestion of Indu Arora that Sunny may be got admitted to some boarding house is stated to be also a circumstance suggesting that she wanted to get rid of Sunny. It is also submitted that Ajit Seth would not have committed the murder of the two children if he thought that Indu Arora would be antagonised by that fact. Thus, he must be aware that Indu Arora would not mind that, and in fact she conspired with him for the doing away of the two children. Reference is made to a declaration by Ajit Seth on June 15, 1988 to Harish Arora wherein the former threatened the latter that he would kill the children. It has also come in the prosecution evidence that Harish Arora, had later told his wife Indu Arora that Ajit Seth had given a threat. It is also stated that the petitioner had stated before her husband Harish Arora and also to his uncle, Darshan Lal, that she would not leave Ajit Seth even if Harish Arora may die or both the children are finished. The next circumstance referred to is an alleged meeting between the petitioner and her co-accused, Ajit Seth, at 10.45 a.m. in the Jwala Heri Market in Paschim Vihar i.e. somewhere near the house of the petitioner. This has been so stated by one Ashwani Kumar Public Witness to the police on July 2, 1988 The fact that Indu Arora did not agree to the suggestion of Mrs. Bali to lodge a report at the police station when that suggestion was given to her at 2.30 p.m. and instead told her that she would like to wait for her husband Harish Arora who had already been informed of the incident and who had left his shop for coming home. It is also stated that the petitioner did not show any concern in the presence of Mrs. Bali when she was told by the latter that Babu Lal had told her about both the children having been taken by Ajit Seth on his motor

cycle inasmuch as there was no expression of concern on her face. Lastly, it was pointed out that Inspector Sharma of Ps Paschim Vihar had told the petitioner and Harish Arora that their children had met with an accident. The petitioner on hearing the same asked him if Ajit had not received any hurt in the accident. It is submitted that the petitioner's showing concern only for Ajit Seth and not showing any concern for the children also went to show that she was a privy to the conspiracy between her and her co-accused, Ajit Seth.

(3) Mr. Bawa, learned counsel for the petitioner, made his comments to explain the facts and circumstances alleged against the petitioner. As regards the statement of Ashwani Kumar it was submitted by Mr. Bawa that the same was recorded on July 2, 1988. The statement of this witness is to the effect that he had seen Ajit Seth talking to Indu who was known to him previously, on June 24, 1988 in Jwala Heri Market at about 10.45 a.m., According to him he has identified Ajit Seth as that person having seen his photograph in the newspapers after June 24, 1988. Mr. Bawa submitted that apart from the fact that the statement was recorded very late, he did not make any such statement to the police on June 25, 1988 on which date he was admittedly with the police at the police station about Indu's not being happy with Sunny and having suggested that he be put up in a boarding house. It was submitted that even if that be so, they could not be stretched to the extent that the petitioner who is the mother of the children would have conspired to get her two children, or even Sunny, murdered. It was also pointed out that Harish Arora is not alleged to have informed his wife that Ajit Seth had threatened to kill the children as such. About Indu Arora not having gone to the police station to lodge the report at the suggestion of Mrs. Bali at 2.30 p.m. it was submitted that she was expecting her husband at any moment as he had informed him of the matter at 1.45 pm. and that Harish Arora in fact just reached there met and the petitioner immediately thereafter somewhere outside the house of Mrs. Bali and that could not be said to be an abnormal conduct of the petitioner. As regards the delay in informing Harish Arora by the petitioner from 12.30 p.m. to 1.45 p.m., it was submitted that the petitioner had in the meantime made a search for the children after taking Prema, aaya, with her. It was also submitted that to say that the petitioner did not have any expression of anxiety on her face in the presence of Mrs. Bali on being told about Ajit Seth having taken the children was neither here, nor there as there

was nothing for which the petitioner was expecting any danger to the children at the hands of Ajit Seth. Similarly, it was also that the petitioner's anxiety about the well-being of Ajit Seth to inspector Sharma when the latter told her and Harish Arora about their children having met with an accident was also no circumstance to show that the petitioner was in conspiracy with Ajit Seth, as by that time the petitioner or Harish Arora were not in the know of the children having been burnt or of the role of Ajit Seth in the same. Another circumstance that has been brought to my notice is the fact that even if the petitioner wanted to get rid of her son Sunny, it would be too much to say that she was not only a willing party but had conspired with Ajit Seth to get her both the children, including the younger daughter Shikha murdered by Ajit Seth. According to Mr. Bawa the doing away of both the children could be no solution for the petitioner being able to marry her alleged paramour, Ajit Seth. It was submitted that it may be that the facts and circumstances as relied upon by the prosecution may throw some little suspicion on the conduct of the petitioner in the entire episode, the facts and circumstances taken together cannot give rise to any real or grave suspicion that the petitioner was in conspiracy with her co-accused, Ajit Seth, in the commission of the crime. The case of the prosecution does not stand to Judicial scrutiny.

(4) I have given the matter my anxious consideration. Having regard to the facts and circumstances of the case and the fact that the petitioner is a woman and the further fact that the trial of the case is likely to take a considerable long time, I admit the petitioner to bail. She be released on bail on her furnishing a personal bond in the sum of Rs. 20,000.00 with two sureties in the like amount to the satisfaction of the Chief Metropolitan Magistrate, Tis Hazari Courts, Delhi or Ms. Anu Prem Shankar, Metropolitan Magistrate, Tis Hazari Courts, Delhi. The petitioner shall not leave India except with the prior permission of the trial court. I need hardly say that by this order of admitting the petitioner to bail I may not be deemed to have expressed any opinion, in any manner, on the merits of the case.