



2026:AHC:66894-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL U/S 413 BNSS No. - 159 of 2026

Smt Neeta Pandey And Another

.....Appellant(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Prakhar Saran Srivastava
Counsel for Respondent(s)	:	G.A.

Court No. - 43

**HON'BLE SALIL KUMAR RAI, J.
HON'BLE DEVENDRA SINGH-I, J.**

Order on Criminal Misc. Exemption Application No. 01 of 2026

The exemption application is allowed.

The appellants are exempted from filing a fresh copy of the documents annexed as Annexure Nos. 4 and 5.

Order on Appeal

Heard the counsel for the appellants and the AGA for the State.

The present appeal under Section 413 BNSS has been filed against the judgment and order dated 17.12.2025 passed by the Sessions Judge, Firozabad in Session Trial No. 535 of 2017 (State of U.P. vs. Sanjeev Kumar Gupta & Others) arising out of Case Crime No. 0641 of 2017 registered under Sections 419, 420, 467, 468, 469, 471, 500, 507, 120B, 34, 182, 186, 187, 193, 195 and 201 IPC, Police Station Tundla, District Firozabad whereby the trial court has acquitted the opposite party nos. 2 to 5.

The case of the prosecution is that on 23.7.2017, a complaint was submitted by Sarika Gupta, the opposite party no. 3, suspecting that Sanjeev Gupta (her husband), the opposite party no. 2, had been kidnapped for ransom by Neeta Pandey and her husband Pradeep Pandey (the appellants in the present case) and Amit Gupta. The complaint was marked as Exhibit Ka-5 in the trial court and on the said complaint, Case Crime No. 0641 of 2017 was initially

registered under Sections 364A, 506, 120B IPC against the appellants and Amit Gupta. It is the case of the prosecution that on investigation, it was found that the opposite party no. 2 - Sanjeev Kumar Gupta had not been kidnapped for ransom, the complaint was false and had been registered only to coerce the appellants to fulfill the demand of opposite parties. It is the case of the prosecution that the opposite party no. 2, i.e., Sanjeev Kumar Gupta, who had been allegedly kidnapped, was recovered in a free state and was also found wandering in a free state and not in the custody of any person. Subsequently, on the aforesaid evidence, charge-sheet under Sections 419, 420, 467, 468, 469, 471, 500, 507, 120B, 34, 182, 186, 187, 193, 195 and 201 IPC was filed against the opposite party nos. 2 to 5. The case was committed for trial to the session court and charges were framed against opposite party nos. 2 to 5. The accused / opposite parties denied the charges and demanded trial.

The prosecution examined eleven witnesses to prove its case. It would serve no purpose to reproduce in detail the testimony of all the eleven witnesses and only the main evidence on which the prosecution relies to prove its case is being considered in the present judgment / order.

Before proceeding further, it would be relevant to note that the written complaint allegedly lodged by opposite party no. 3, i.e., Sarika Gupta was proved by PW-1 who at the relevant time, i.e., on 23.7.2017 was posted as Constable at Tundala Police Station. Though in his examination-in-chief as PW-1, the witness stated that the opposite parties had signed the written complaint in his presence but in his statement under Section 161 Cr.P.C., the witness did not give any such statement to the Investigating Officer. In his statement under Section 161 Cr.P.C. to the Investigating Officer, the witness had not stated that Sarika Gupta came to the police station with the complaint and that she had signed the complaint in presence of the witness. The witness admitted that the said fact was being stated by him for the first time in the court. The witness also admitted that during the entire investigation, he did not tell the Investigating Officer that Sarika Gupta had herself come to the police station and gave the complaint and had signed it in the presence of the witness. In Paragraph - 23 of its judgment, the trial court has also noted that in his cross-examination, the witness admitted that he had not seen Sarika Gupta signing the complaint before him and the said fact

was not mentioned in his statement under Section 161 Cr.P.C. or at any previous stage. The trial court has also taken note of the fact that in his evidence, the witness further stated that GD No. 52 which was marked as Exhibit Ka-2 in the trial court was prepared by the witness before the first information report was registered. GD entry does not mention that Sarika Gupta herself came to the police station and submitted the complaint and signed the complaint in presence of the witness.

The prosecution in order to prove its case that the first information report was false and was filed due to extraneous reasons examined the Sub-Inspector Lakhan Singh as PW-6 who had stated that he received information about Sanjeev Kumar Gupta's presence in Hotel Savan Mahal NH-44, District Panipat, Haryana and recovered him with the help of accompanying staff and Jitendra Singh the Station House Officer of Samal Khan Police Station. It has been noted by the trial court that it was claimed by the prosecution that the location of Sanjeev Kumar Gupta was traced with the help of Constable Amit Upadhyay, who was an expert in surveillance. The witness stated that CCTV footage of Hotel Savan Mahal, Panipat dated 28.7.2017 relating to Sanjeev Kumar Gupta was obtained from the CD and the hotel employees. The statement of hotel employees was also recorded under Section 161 Cr.P.C. It has been stated by the witness that after recovering Sanjeev Kumar Gupta, the witness went to Wave Mall, Narwal, Jammu on August 1, 2017 and with the assistance of the security officer of Wave Mall, the CCTV footage of Wave Mall was also viewed. It has been stated by the witness that Sanjeev Kumar Gupta was seen on the CCTV camera at the gate of Wave Mall getting out of an auto-rickshaw and entering the Mall. He was seen purchasing a ticket at the ticket counter and wandering around the lobby. In the CCTV footage, Sanjeev Kumar Gupta, i.e., opposite party no. 2 was seen leaving Web Cinema and boarding a bus on the road outside Wave Mall. The witness stated that the CCTV footages were saved on a hard disk with the help of surveillance expert Constable Amit Upadhyay and the security officer of Wave Mall. The trial court has noted that in his cross-examination, the witness stated that he was not the Investigating Officer in the case. The witness admitted that he did not prove any documents in his examination-in-chief and there were no documentary evidence including CCTV footage and CDs or pen drives nor any of the said evidence were presented in the court. The witness admitted in his cross-

examination that the recovery report of Sanjeev Kumar Gupta having been recovered was not prepared and the signatures of those present during recovery was also not obtained. The witness also admitted that there was no record of Sanjeev Kumar Gupta standing in the lobby of Hotel Savan Mahal, Sonipat or of his recovery from there which could prove that Sanjeev Kumar Gupta was recovered from the hotel on July 28, 2017.

Amit Upadhyay mentioned as surveillance expert by PW-6 was examined by the prosecution as PW-10. In his testimony, PW-10 stated that Sanjeev Kumar Gupta was arrested / recovered on 28.7.2017 at Swarn Mahal Hotel, Panipat and CCTV footage was collected from the Hotel as well as from Wave Mall, Jammu whose DVD was made and the footage was safely provided to the Investigating Officer. The witness in his cross-examination admitted that there were gaps in the video as displayed in the CCTV footage and that he recovered the data in the presence of the hotel owner with his permission. The witness also admitted that the documents regarding the hotel owner's consent were not on record. The witness also admitted in his cross-examination that Sanjeev Kumar Gupta was identified by SI Lakhan Singh, i.e., PW-6 whom the witness accompanied during the entire process. The witness was unable to answer as to how PW-6 identified Sanjeev Kumar Gupta. The witness in his cross-examination also admitted that they had purchased the pen drive device and inserted it into the DVR only while collecting the data. The pen drive was not checked before it was inserted into the DVR. The DVR was not seized and was not brought by the witness. No certificate or verification document regarding the collection / copying of the CCTV footage from the original was given to them either by the owner of the hotel or the Wave Mall. The footage as collected was handed over to the Investigating Officer. The verification certificate for the video which the witness claims to have collected and which he states was provided to the Investigating Officer, was not submitted before the court.

It is also noticeable that the Investigating Officer of the case who was examined as PW-11 admitted in his cross-examination that the case diary and other documents on file did not mention the call detail records through which the location of Sanjeev Kumar Gupta was allegedly traced by the police personnels who had allegedly recovered / arrested him from Swarn Mahal Hotel. The CDR reports have also not been included in the case

diary.

It is important to note that from the judgment of the trial court which in detail narrates the testimony of the different witnesses involved in the investigation of the case, it is evident that no recovery memo of the CCTV footage was prepared or mentioned in the case diary. The pen drive or other electronic instruments used to retrieve the CCTV footage and make a copy of them were not sealed and no sample seal was prepared by the concerned police personnels. The CCTV footages as would be evident from the recital in Paragraph - 25 of the judgment were also not seen and verified by the Investigating Officer.

It is also apparent that no certificate under Section 65B of the Evidence Act regarding the aforesaid electronic documents was submitted.

After perusing the aforesaid evidence, the trial court recorded its finding that the failure of the prosecution to either prepare a recovery memo of the CCTV footage or to seal the said materials or to even produce the call detail records which allegedly traced the location of Sanjeev Kumar Gupta and also the permission of the owners of the Wave Mall or the hotel to retrieve the CCTV footage created doubt as to whether the police visited the sites mentioned to recover Sanjeev Kumar Gupta, i.e., opposite party no. 2 which in turn created a doubt on the prosecution story. We do not find any perversity in the assessment of evidence or any unreasonableness in the findings of the trial court.

At this stage, it would be relevant to notice that neither the owner of the Wave Mall nor of the hotel from where Sanjeev Kumar Gupta was either recovered or where Sanjeev Kumar Gupta was found wandering nor any employee of the said Mall or hotel were examined as witness to corroborate the claim of the prosecution witness that Sanjeev Kumar Gupta was recovered from the hotel and was also seen in the CCTV footage wandering in Wave Mall. The aforesaid failure of the prosecution further persuades this Court not to admit the present appeal and re-assess the evidence on record in as much as any re-assessment of evidence would not be fruitful. There is no perversity in the findings of the trial court that the manner in which the recovery of Sanjeev Kumar Gupta was secured is doubtful. We do not find any reason to re-assess the evidence on record on the aforesaid ground.

It is also noticeable that in his testimony as PW-11, the Investigating Officer admitted that there was no evidence regarding the offences mentioned under Sections 419, 420, 467, 468, 469, 471, 500, 507, 120B IPC. No ground has been raised in the memorandum of appeal to challenge the findings of the trial court that no witness was produced by the prosecution to convincingly prove any monetary transaction between the parties or any attempt by the accused to either deceive or coerce the appellants into giving money to them.

Because of the aforesaid shortcomings, the trial court noted that the appropriate course by the prosecution was to file a final report on the first information report initially registered under Sections 364A, 506, 120B IPC rather than filing a charge-sheet under sections mentioned hereinbefore. The trial court has also noted that the offences under which the proposed accused were charge-sheeted was not proved by the prosecution and the prosecution failed to establish the theory of abduction and monetary transaction between the parties. Considering the aforesaid, the trial court granted benefit of doubt to the accused and held that the prosecution had not been able to prove its case beyond doubt.

It has been argued by the counsel for the appellants that the findings and the evidence on record may show that the investigating agency had committed a faulty investigation and any fault in the investigation cannot be a ground to acquit the accused. It has been argued that for the aforesaid reason, the appeal is to be admitted, evidence is to be re-assessed and the accused are liable to be convicted.

We are not impressed by the argument of the counsel for the appellants. It is not a case of faulty investigation. The proceedings in the trial court show that there was no evidence to either prove any monetary transaction between the parties so as to convict the accused under Sections 419, 420, 467, 468, 469, 471, 500, 507, 120B, 34, 182, 186, 187, 193, 195 and 201 IPC or to accept the prosecution story regarding recovery of opposite party no. 2.

We do not find any perversity or any other illegality in the assessment of evidence by the trial court. The view taken by the trial court is a plausible view and is based on evidence. No grounds either of fact or law or regarding assessment of evidence by the trial court arise in the present appeal.

For all the aforesaid reasons, we do not consider it a case to re-assess the evidence at the instance of the appellants after summoning the records of the case.

The appeal is ***dismissed*** summarily.

Let the file be consigned to records after certifying a copy of the present judgment to the trial court.

(Devendra Singh-I,J.) (Salil Kumar Rai,J.)

March 30, 2026
Satyam