

Charges were framed against the 14 accused in the following manner against Accused No. 1 for the offences punishable under Section 109 read with Section 366, Section 109 read with Section 323 and Section 323 I.P.C. against Accused Nos. 2 to 13 for the offences punishable under Sections 364, 366 and 323 of the I.P.C. and against Accused No. 14 for the offences punishable under Section 109 with Section 506 of the I.P.C.

On evaluation of the material on record, ⁸⁰the Trial Court convicted Accused Nos. 1 to 9 and acquitted Accused Nos. 10 to Accused No. 1 was convicted for the offences under Section 366, Section 352, and Section 109 read with Section 352 of the I.P.C. Accused Nos. 2 to 9 were convicted under Sections 364, 366 and 352 of the I.P.C.

On appeal by the convicted accused, the High Court affirmed the finding of guilt by the Trial court but modified the conviction of Accused No. 1 ¹⁶⁰from Section 109 read with Section 364 to Section 109 read with Section 365, and the conviction of Accused Nos. 2 to 9 from Section 366 to Section 365. The High Court maintained the conviction of Accused No. 1 under Section 109 read with Section 352 and that of Accused Nos. 2 to 9 under Section 352, and acquitted them for the offences. Accused No. 1 was sentenced to undergo rigorous imprisonment for three years and Accused Nos. 2 to ²⁴⁰9 were sentenced to undergo rigorous imprisonment for two years. Hence, these appeals by the convicted accused.

Shri Sushil Kumar, learned senior counsel for the appellants submitted that the drivers of the two vehicles involved in the incident of abduction that is M.O. Nos. 1 and 2 were acquitted by the Trial Court, as was Accused No. 14 Sunita, in whose house P.W. 1 and her husband Santha Kumar were kept confined after abduction, and hence the High Court was ³²⁰not justified in affirming the conviction of the other accused. In fact, he asserted that these acquittals would cause the entire case of abduction to collapse. He further argued that there was an enormous delay in the lodging of the F.I.R. by P.W. 1, in as much as the alleged incident had taken place on 01.10.2001 and the complaint came to be lodged only on 12.10.2001, and that the F.I.R. was only registered on 09.11.2001, which delay was not explained ⁴⁰⁰by the prosecution either.

He also argued that the incident of abduction had not occurred and that the averments made in the complaint were false and concocted. Further, he stated that the explanation regarding the delay in filing the F.I.R. that P.W. 1's house was being watched by Accused Nos. 2 to 9 may not be accepted in view of the fact that she or her husband could have called the police using a phone, which was admittedly in their possession. ⁴⁸⁰