



CNR No.: UPKJ010024692021

Date of Institution 06-30-21 MM/DD/YY	Date of Judgement: 09-20-25 MM/DD/YY	Age: 4 Y, 2 M, 21 D
---	--	------------------------

In the Court of the Sessions Judge, Kannauj

Presiding Officer- Shri Chandroday Kumar (HJS)-UP06553
Sessions Trial No.: 527 of 2021 (State of Uttar Pradesh vs. Vijay Veer & Anr.)
With
Sessions Trial No.: 666 of 2021 (State of Uttar Pradesh vs. Ramadhar)

Parties
State of Uttar Pradesh ... Prosecution
Versus

1. **Vijay Veer, S/o Ram Prakash**, R/o Village Nunari, P.S. Tirwa, District Kannauj
2. **Rakesh**, S/o Mishri Lal, R/o Village Nunari, P.S. Tirwa, District Kannauj
3. **Ramadhar**, S/o Bhaiya Lal, R/o Village Nunari, P.S. Tirwa, District Kannauj ... Accused

Police Station: Thathia
Crime No.: 67/2021
Sections: 364, 323, 506, 120-B IPC

Prosecution Counsel: Shri Tarun Chandra, DGC-in-charge (Criminal)
Defence Counsel: Shri Avinash Chandra Dubey, Advocate

Date of Judgment: 20-09-2025

Judgment

Introduction & Procedural History

1. These two Sessions Trials arise from the same transaction and are, therefore, being decided by this common judgment. Sessions Trial No. 527 of 2021 (against Vijay Veer and Rakesh) is treated as the leading case; Sessions Trial No. 666 of 2021 (against Ramadhar) is tagged with it.
2. The case of the prosecution, shorn of verbiage, is: on 17.03.2021 at about 9:00 a.m., when **Aman @ Chhotu** (hereinafter “the alleged abductee/victim”) was going for labour work towards Behata, **two persons arrived on a motorcycle** near Bamba culvert in front of village Gadhiya, assaulted him, threatened him and forcibly seated him on the motorcycle and took him away. A written tahrir was lodged by **Pinki (sister of the alleged abductee)** at P.S. Thathia on **18.03.2021 at 00.50**; FIR was registered under Sections 364, 323, 506 IPC against **Ramadhar and Ram Prakash (Ram Prakash later dropped from the investigation)**, and investigation ensued. On 18.03.2021, police claim to have “recovered” Aman @ Chhotu from a

Bolero vehicle near Ishan river bridge (Thathia-Manumau Marg) with **Vijay Veer and Rakesh** allegedly in possession, whereafter Sections 120-B IPC were added, and two charge-sheets were filed – one against Vijay Veer & Rakesh and another against Ramadhar.

3. Prosecution's Oral Evidence:

Witness of facts:

PW1, Pinki; Sister of the victim and the complainant/informant, and
PW2, Vinod S/o Parmeshwar Dayal; relative/villager of the complainant.

Formal witnesses:

PW3, Constable Achelal, proved FIR and GD, and
PW4, Inspector Maan Singh, prepared the site map and submitted the chargesheet.

Prosecution's Documentary Evidence:

Exhibit Ka-1, Tahrir; proved by PW1,
Exhibit Ka-2, FIR; proved by PW2,
Exhibit Ka-3, GD; proved by PW3,
Exhibit Ka-4, Recovery Memo; proved by PW4,
Exhibit Ka-5, Site Map; proved by PW4,
Exhibit Ka-6, Site Map of recovery place; proved by PW4
Exhibit Ka-7, Charge sheet against accused Vijay Veer & Rakesh proved by PW4,
Exhibit Ka-8 Charge sheet against accused Ramadhar proved by PW4,
Exhibit Ka-9 GD No 5 time 00:44; proved by PW3, and
Exhibit Ka-10 GD No 7 time 03:00; proved by PW3.

4. Defence' Oral Evidence: Nil

Defence' Documentary Evidence: Certified copy of FIR No. 347/2020, dated 01.10.2020, U/s 302 IPC, P/s- Kotwali Tirwa, Distt. Kannauj lodged by Ram Prakash (accused of this case) (Exhibit Kha-1), stating therein that his son Ajab Singh was murdered with a rotavator during ploughing the field, and the charge-sheet (Exhibit Kha-2) thereof against Vinod Kumar, Chhota @ Aman (accused of this case) and Balram U/s- 304 IPC was filed by the police.

5. The accused denied their guilt in their Section 313 CrPC statements, claiming they were falsely implicated due to the prior murder of Ajab Singh, also known as Mintu. Ajab was the family nephew of Ramadhar, the brother of Vijay Veer, and the real nephew of Rakesh. They asserted that the murder was carried out by Aman Chhota, together with Vinod (PW2).

6. I have heard the learned DGC-in-charge (Criminal) and the learned defence counsel at length and carefully considered the entire material on record. The learned defence counsel pointed out lacunae: no examination of the alleged abductee as a witness, contradictions regarding GD timings, absence of independent public witnesses at the claimed recovery, no 164 CrPC statement, no call detail records (CDRs), no recovery of the alleged stamp-papers, no medico-legal linkage, and no public witness to arrest/recovery despite a busy roadway.

Points for Determination

7. Having regard to the charges and evidence, the following points arise:
1. Whether on 17.03.2021, at about 9:00 a.m., the accused abducted/kidnapped Aman @ Chhotu from near Bamba culvert, village Gadhiya, with the intention that he may be murdered or that his death may be caused (Section 364 IPC)?
 2. Whether in the course of the same transaction, the accused voluntarily caused hurt to Aman @ Chhotu (Section 323 IPC)?
 3. Whether the accused committed criminal intimidation by threatening Aman @ Chhotu or his relatives with injury to life (Section 506 IPC)?
 4. Whether there existed an agreement amongst the accused to commit the above illegal acts amounting to criminal conspiracy (Section 120-B IPC)?

The prosecution must establish each charge beyond a reasonable doubt; the presumption of innocence is the “golden thread” through criminal jurisprudence and persists through all stages of the trial.

Governing Legal Principles

8. **Burden & Standard of Proof:** The prosecution must prove its case beyond a reasonable doubt; the accused need only create a reasonable doubt to secure acquittal. See [Kali Ram v. State of H.P., \(1973\) 2 SCC 808](#), [V.D. Jhingan v. State of U.P., AIR 1966 SC 1762](#), [Sharad Birdhichand Sarda v. State of Maharashtra, \(1984\) 4 SCC 116](#) (circumstantial evidence must form a complete chain).
9. **Non-examination of material witness:** Withholding/omitting the most material witness (here, the alleged abductee) permits an adverse inference under Section 114(g) Evidence Act if no plausible explanation is offered. See [Tomaso Bruno v. State of U.P., \(2015\) 7 SCC 178](#); [Hem Raj v. State of Haryana, \(2005\) 10 SCC 614](#); [Takhaji Hiraji v. Thakore Kubersingh, \(2001\) 6 SCC 145](#).
10. **Value of police statements:** Statements of witnesses recorded by police under Section 161 CrPC are not substantive evidence; Section 162 CrPC controls their use (only for contradiction). An unproven out-of-court statement of the victim narrated by the IO is hearsay and cannot be the foundation for a conviction.
11. **Section 164 CrPC statement:** Where the victim’s version is the fulcrum, non-recording of a 164 CrPC statement and failure to secure the victim’s testimony at trial are serious infirmities, unless cogently explained.
12. **Recovery & public witnesses:** When recovery/arrest occurs at a public place, non-joining of any independent witness and lack of corroborative scientific evidence reduce reliability ([Rohtash Kumar v. State of Haryana, \(2013\) 14 SCC 434](#)).
13. **Benefit of Doubt:** If two reasonable views are possible, the one favouring the accused must be adopted (**Kali Ram**, supra).

Appreciation of Evidence

14. The Informant's Version (PW-1 Pinki)

PW-1 proves the tahrir and says she was informed by villagers/passers-by that two unknown persons took her brother on a motorcycle near the Bamba culvert. However, she did not witness the abduction herself; her knowledge is based on hearsay. She attributes the names of Ramadhar and Ram Prakash to what she was later told at her parental village, Jaganpurwa; even there, she does not name any specific informant. During cross-examination, PW-1 candidly admits: *she did not witness the abduction*; no weapon was shown per her own FIR narrative; and significantly, she says *she never lodged any report against Rakesh* and even saw him for the first time in Court, describing him as an elderly, weak man. These admissions fatally undermine the prosecution's attempt to implicate Rakesh and cast a serious shadow on the very genesis of the FIR qua identity of abductors.

15. PW-1 further acknowledges the enmity background: *her brother Aman had worked as a tractor driver at Ram Prakash's house; there existed a prior, approximately six and a half months, homicide case concerning Ajab Singh @ Mintu (Ram Prakash's son), in which Aman @ Chhotu was an accused and later jailed.* This defence-produced record supplies a live motive for false implication of members of Ram Prakash's family, including Vijay Veer (his son) and Rakesh (his brother). The existence of an alternate hypothesis grounded in prior litigation weakens the prosecution's case unless it is answered with direct and credible evidence, which is absent. In fact, PW1 in her cross-examination has admitted that when she reached Jaganpurva in search of her brother, her brother Dasrath and his wife told her that Aman @ Chhota was absconding in the case of the murder of Mintu @ Ajab Singh. Ram Prakash had lodged a report against Aman @ chhota. In this (murder) case, Aman @ Chhota was jailed and is still in jail. She wanted to save her brother, which is why she lodged the FIR of abduction of Aman @ Chhota. This admission by the witness reveals the layers of falsity in the case. The falsity of the case finds support from her further admission that, before the alleged abduction, her brother Aman @ Chhota was not living with her. Instead, he was coming to his village, Jaganpurva, from Delhi on the festival of Holi. He was working as a labourer in Delhi. This admission of witness leaves no doubt that the FIR was lodged falsely. Perhaps due to the falsity of the case, the abductee did not turn up in Court to depose.

16. PW-2 (Vinod) (Relative/Villager)

PW-2 initially parroted the FIR story and claimed, at one place, to have seen *Aman being taken on a motorcycle and even rescued him at a petrol pump along with others.* But in cross-examination, he retracted, conceding that *he did not witness any abduction and did not know who took Aman*; he also admitted relationship bias (Pinki is his younger brother's wife). *Such oscillation renders his testimony unreliable.* Contradictions between his chief and cross are material and go to the root of the case. No independent person from the spot (petrol pump/GT Road) was examined, despite the alleged rescue happening in a public, busy location.

17. PW-3 (Head Constable Achelal)

PW-3 proves registration of FIR and GD entries. Yet, a timing anomaly creeps in: while the informant alleges the abduction on 17.03.2021 at 9:00 a.m., the FIR is registered on 18.03.2021, and the GD entry timing appears as 00:46 vs 12:46 in different formats. PW-3's attempt to explain the 12-hour/24-hour clock format mismatch remains a bald explanation without documentary corroboration. *The delay in lodging the FIR is unexplained—particularly significant when the incident allegedly occurred in broad daylight and the informant claims to have received information the same morning.* Unexplained delay in FIR can be fatal where the case rests on uncorroborated hearsay and suspicion, as here.

18. PW-4 (Investigating Officer Maan Singh)

The IO's testimony exposes multiple investigative lapses:

- He claims a recovery of Aman @ Chhotu on 18.03.2021, about 4:45 a.m., from a Bolero near Ishan river bridge with Vijay Veer and Rakesh present, and some cash/mobile phones seized. However:
- No independent public witness from the busy Thathia-Manimau road was joined, though the IO concedes the road is very busy with people and vehicles, and that he asked, but none agreed. No notice/action is shown against such refusing persons, which courts have repeatedly viewed with suspicion.
- No ownership verification of the seized Bolero; the IO did not note chassis/engine numbers and could not even consistently recall its colour.
- The IO did not obtain CDRs of the seized mobiles to support his "recovery" or to link any accused with the alleged movements. He casually stated that CDRs had nothing to do with the case—an untenable stance in an abduction allegation.
- Critically, the prosecution did not produce Aman @ Chhotu as a witness during the trial, and the IO did not record Aman's statement under Section 164 CrPC. The IO candidly admitted there was no 164 and supplied no cogent reason why the star witness was not examined.
- The IO's narrative includes a claim that Ram Prakash and Ramadhar took Aman earlier and obtained his thumb impression/signature on blank stamp papers to be used in the prior homicide case. Yet, no such stamp papers were ever recovered or seized; no link evidence connects those alleged papers to any judicial proceeding.
- The site plans do not reflect critical landmarks (e.g., naming of culvert/village in the abduction site plan) and were admittedly prepared not at the instance of any eye-witness to the alleged abduction but on the informant's indications, who herself had not seen the incident. This fundamentally erodes the probative worth of the site plans.

19. It will be pertinent here to reiterate the statement of the abductee Aman alias Chhotu under section 161 of the Cr.P.C., which is as follows: “I used to drive the tractor of Ram Prakash, a resident of village Nunari. While I was ploughing the field with the tractor, suddenly Ram Prakash’s son Mintu alias Ajab Singh came under the rotavator and died. In that matter, Ram Prakash lodged a case at the Police Station Tirwa. In that case, these people were pressuring me to give a false statement to implicate others. Out of fear, I left my home and went to stay at my sister’s house in the village of Kursara. I somehow kept avoiding them, but on 17.03.2021, when I was going from my sister Pinky’s house to work in village Behta in the morning, Ram Prakash and Ramadhar met me on the way near Bamba bridge. They beat me up, threatened me, forced me onto their motorcycle, and took me to an unknown place. There, they took my thumb impression on blank stamp papers. I am illiterate. After taking my thumb impression, Ram Prakash and Ramadhar handed me over to Chintu alias Vijay Veer and Rakesh, who put me in an ambulance. Ram Prakash and Ramadhar told them, “You take Aman with you, and we will come there.” Then Vijay Veer and Rakesh took me in the ambulance to the place where you caught them, and they were standing there discussing among themselves that now their work is done and that I should be killed today so that in the case they had filed, the accused would face severe punishment.”

20. In sum, the IO’s testimony, far from plugging gaps, widens them: (i) no direct evidence; (ii) no victim testimony; (iii) no 164 statement; (iv) no scientific corroboration; (v) non-joining of independent witnesses; (vi) procedural irregularities in seizure/recovery; and (vii) failure to investigate alternative hypotheses springing from the prior homicide case; (viii) clean chit to Ram Prakash; (ix) improbability of abduction by single person Ramadhar; (x) no recovery of affidavits.

Analysis & Findings on Each Charge

21. Point 1 – Section 364 IPC (Kidnapping/Abduction in order to murder)

The ingredients require proof that: (a) the accused kidnapped/abducted Aman; and (b) the intention was to cause death or to put him in danger of being murdered. Here:

- Actus reus (the very abduction) is not proved by any eyewitness. The informant did not witness it; PW-2 recanted; no other passer-by/neighbour was examined, though the narrative relies on them.
- The victim himself was never examined; no 164 CrPC statement; no contemporaneous statement before a Magistrate. Though the IO noted his statement in the case diary, he did not mention his name in the list of witnesses in the charge sheet. Prosecution, perhaps knowingly, did not produce him, probably due to his admission of enmity with the accused due to a prior murder case against him.
- The recovery is suspect—no public witness, no CDRs, no transparent custody record of the recovered person.

- Mens rea (intention to murder) is wholly unsubstantiated—no weapon, no plan, no overt act suggesting a design to cause death. The IO's version that they were "taking him to a lonely place to kill" is built on alleged oral admissions at the spot without any Section 27 Evidence Act-type discovery or corroboration.
- It is impossible that a single person, Ramadhar, can forcibly abduct the abductee. There was no threat of a gun, etc.

Given the above, the charge under Section 364 IPC **fails**. At best, the material raises suspicion, which cannot replace proof. (**Kali Ram, Jhingan; Sharad Birdhichand on the "complete chain" rule**).

22. Point 2 – Section 323 IPC (Voluntarily causing hurt)

No medical officer was examined; no medico-legal report was proved through its author; no eye-witness deposed to any assault; the informant's hearsay cannot establish who caused any injury and how. Even if minor injuries existed, there is no nexus shown to any accused by reliable evidence. Hence, Section 323 IPC is not proved.

23. Point 3 – Section 506 IPC (Criminal intimidation)

Neither specific words of threat nor the person threatened have been proved through admissible testimony. The FIR's general allegation of "threatening" remains unproven at trial. No witness deposed to the content, occasion or effect of any threat. Thus, Section 506 IPC is not made out.

24. Point 4 – Section 120-B IPC (Criminal conspiracy)

Conspiracy requires proof of agreement to do an illegal act. There is no independent evidence of meetings, communications, or preparatory acts; no CDRs, no recovered writings, no co-conspirator statements admissible under Section 10 Evidence Act. Once the substantive offences fail, a bare allegation of conspiracy cannot stand on its own. The charge under Section 120-B IPC is not established.

25. The Prosecution's Capital Omission: Non-examination of the Alleged Abductee

The alleged abductee, Aman @ Chhotu, may have been the star witness. His testimony was indispensable to prove the fact of abduction, identity of perpetrators, assault/threats, and subsequent recovery. The prosecution neither secured his presence at trial nor obtained his Section 164 CrPC statement contemporaneously. No material is produced to show due diligence (bailable/non-bailable warrants, proclamation, or reasons like illness/untraceability). In such circumstances, the Court is entitled to draw an adverse inference against the prosecution under Section 114(g) Evidence Act that the withheld evidence would have gone against it (see **Tomaso Bruno, Hem Raj, Takhaji Hiraji**).

26. The IO's attempt to rely on what Aman allegedly told him is inadmissible hearsay. Section 161 CrPC statements are not substantive

evidence; they can only be used to contradict the maker if the maker enters the witness-box, which did not occur here (Sections 161/162 CrPC). Therefore, the core narrative remains unproven. Even if the statement of abductee U/s 161 is considered true for the sake of argument, he admits the homicide against him, and contradictions in his statement diminish his credibility.

Investigative Lapses and Their Legal Effect

27. The following lapses cumulatively corrode reliability:

- No public witness at the claimed recovery/arrest from a busy road;
- No CDRs, despite seizure of two phones;
- No forensic linkage of the vehicle (no chassis/engine number noted; no ownership verification; colour inconsistencies);
- No recovery of alleged stamp-papers upon which signatures/thumb impressions were said to have been taken;
- Defective site plans not based on any eye-witness and omitting key landmarks;
- GD/FIR timing anomalies with a delayed FIR and inadequate explanation;
- No 164 CrPC statement; no production of the victim at trial; no supurdginama or custody record after recovery.

Jurisprudence teaches that serious investigative lapses, when they strike at the root of the prosecution's case, create reasonable doubt sufficient to acquit (cf. **Rohtash Kumar, Kashi Ram, Kali Ram**). The Court cannot fill gaps by conjecture.

Defence Probabilization & Alternative Hypothesis

28. The defence placed on record FIR No. 347/2020 and charge-sheet concerning the death of Ajab Singh @ Mintu, showing Aman @ Chhotu as an accused. PW-1 accepted this background. This prior litigation provides a plausible alternative hypothesis of enmity and false implication. When the prosecution's proof is already fragile, the existence of a reasonable alternative hypothesis fortifies the doubt in favour of the accused (**Sharad Birdhichand**).

Cumulative Assessment

29. The prosecution's case is structurally unsound. Its foundation—the alleged abductee's testimony—is missing.

The superstructure—recovery/arrest—rests on police witnesses alone, without independent corroboration, and is further weakened by procedural lapses and non-collection of scientific evidence. The roof—mens rea for Section 364 and agreement for Section 120-B—has no beams at all. On settled law, such a house cannot stand.

30. The Court reiterates: in criminal trials, what may be true is not necessarily true. It is better that ten guilty persons escape than that one innocent suffer (**Kali Ram** (supra); see also [Narendra Singh v. State of M.P.](#)).

(2004) 10 SCC 699, on the benefit of doubt). Here, a host of reasonable doubts survives:

- Who abducted Aman?
- Was there an abduction at all in the legal sense?
- Who caused any hurt/threats?
- Was any conspiracy proved by admissible evidence?
- Why did the prosecution not produce Aman or record his 164 CrPC statement?

Each doubt – individually significant – collectively compels acquittal.

31. Findings

Point 1 (Section 364 IPC): Not proved. No eye-witness; no victim; recovery/arrest infirm; no mens rea proved.

Point 2 (Section 323 IPC): Not proved. Absence of reliable evidence linking any accused to causing hurt; the medical chain has not been proved.

Point 3 (Section 506 IPC): Not proved – no specific, credible proof of threats.

Point 4 (Section 120-B IPC): Not proved – no material of agreement/meeting of minds; failure of substantive offences.

Order

Accused individuals Vijay Veer, Rakesh, and Ramadhar are acquitted of the offences under Sections 364, 323, 506, and 120-B IPC in Sessions Trial Nos. 527/2021 and 666/2021.

The accused are on bail. Their bail bonds are cancelled and sureties discharged. Case property (if any) having no nexus with any proved offence shall be dealt with in accordance with the law after the expiry of the appeal period. Seized mobile phones/currency, if not otherwise required in any other case, will be returned to the persons from whom they were seized.

Let a copy of this judgment be sent to the District Magistrate and Superintendent of Police for future guidance, as per law. Records should be consigned to the Record Room.

This Judgment Signed, Dated and Pronounced by me in open Court on 20-09-2025. A copy of this judgment and order shall be placed on Sessions Trial No. 666 of 2021 (State of Uttar Pradesh vs. Ramadhar)

(Chandroday Kumar)
Sessions Judge, Kannauj