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IN THE COURT OF SESSIONS JUDGE, KANNAUJ (U.P.)

Sessions Trial No. 736 of 2021

State of Uttar Pradesh vs. Shan Khan

Under Sections 363 and 366 of the Indian Penal Code, 1860

Presiding Officer: Shri Chandroday Kumar, Sessions Judge, Kannauj.

Date of Judgment: 29 August 2025.

Introduction

- Charges:** The accused, Shan Khan, s/o Walim Khan alias Balle, was charged and tried for offences punishable under Sections 363 and 366 of the Indian Penal Code, 1860 (IPC). Section 363 IPC penalises kidnapping from lawful guardianship (taking or enticing a minor out of the keeping of the lawful guardian without consent), while Section 366 IPC deals with kidnapping or abducting a woman with the intent to compel her marriage or force illicit intercourse. The case was committed to the Court of Session after the submission of the charge-sheet, and charges were formally framed against the accused. The accused pleaded not guilty and claimed a trial.
- Plea of Accused:** Upon arraignment, the accused denied the allegations and, during his examination under Section 313 of the Code of Criminal Procedure, 1973 (CrPC), stated that he is innocent and has been falsely implicated due to enmity. No evidence was led in defence.

Factual Matrix

- Prosecution Story:** The prosecution’s case in brief is that on 31.05.2021 at about 4:00 PM, the minor daughter of the complainant (aged about 15 years) was allegedly enticed away from her home in Samdhan, District Kannauj, by the accused Shan Khan along with another person, one Assan Khan, and three unknown individuals—the complainant, Smt. Yasmeen (mother of the girl) - submitted a written report (tahrir) on 01.06.2021 at Police Station Gursahayganj, Kannauj (Exhibit Ka-1), narrating that her daughter had gone missing and accusing Shan Khan and others of abducting her. Based on this written complaint, First Information Report No. 274/2021 was registered on 01.06.2021 at 15:34 hrs under Sections 363 and 366 IPC.
- Recovery of Victim:** Acting on the complaint, the police launched an investigation. On the same day (01.06.2021), acting on information from an informant, the police recovered the missing girl, Miss “Z”

(victim/prosecutrix), near Malikpur Railway Crossing. The victim's father, Akhtar Ali, was present at the recovery and identified his daughter. The prosecutrix was then brought for medical examination and age determination. She refused an internal medical examination of her own free will, but an ossification test/age assessment was conducted on 04.06.2021, which indicated her age to be about 17 years (i.e. a minor). Upon recovery, the victim was produced before a Magistrate for recording of her statement under Section 164 CrPC.

5. **Victim's Statement under Section 164 CrPC:** In her statement recorded by the Judicial Magistrate on 04.06.2021 (Exhibit Ka-2), the victim completely denied being kidnapped or induced by the accused. She stated on oath that "Nobody enticed or induced me to go anywhere. On 31.05.2021, being annoyed with my mother, I went to my maternal aunt's house at Samdhan on my own. The next morning (01.06.2021), I returned home. I do not know Shan and Assan. My mother has lodged a false case. I wish to reside at my home with my parents.". This Section 164 statement – made just days after the incident – already indicated that the prosecutrix did not support the prosecution's story of abduction.

6. **Charge-Sheet and Committal:** The investigation was carried out by Investigating Officer SI Raja Dubey. He visited the scene, prepared a site map, recorded statements of witnesses, and collected necessary documents. Finding sufficient grounds, the IO submitted a charge-sheet (Challan) against the accused Shan Khan (the other named suspect, Assan Khan, presumably was not sent up for trial or was absconding – as only Shan Khan faced trial in the present session case). The case being exclusively triable by the Court of Session, the learned Magistrate committed it for trial.

Evidence Led at Trial

7. **Prosecution Witnesses:** The prosecution examined a total of four witnesses to prove its case:

PW-1 Smt. Yasmeen Begum – mother of the victim and the original complainant/informant.

PW-2 Akhtar Ali – father of the victim.

PW-3 Miss "Z" – the victim/prosecutrix (daughter of PW-1 and PW-2).

8. Besides oral evidence, the prosecution produced certain documents which were exhibited: Exhibit Ka-1 (the written complaint/tahrir lodged by PW-1), Exhibit Ka-2 (the prosecutrix's statement recorded under Section 164 CrPC, in a sealed cover, later opened and proved by the prosecutrix herself during trial). The defence did not dispute the genuineness of the following documents as per Section 294 CrPC admissions: Charge-Sheet (against sole accused Shan Khan, rest absolved) – Exhibit Ka-3, FIR – Exhibit Ka-4, GD (dated 01.06.2021 at 15:34) – Exhibit Ka-5, Site Map (from where victim went) – Exhibit Ka-6 and Ossification Report regarding determination of age

of the victim – Exhibit Ka-7. The prosecution has presented no additional evidence, either documentary or oral, and has closed its case.

9. **Defence Evidence:** No oral or documentary evidence was adduced by the defence. The accused's version, as gathered from his 313 CrPC statement and cross-examination suggestions, was that he had been falsely implicated due to a love affair with the prosecutrix culminating in marriage, which her family initially opposed. The defence theory suggested that the FIR was engineered by some relatives/neighbours out of ill-will, and that the prosecutrix willingly eloped and married the accused, who did not kidnap or harm her in any manner.

Summary of Witness Testimonies

10. PW-1 (Complainant – Mother of Victim): Smt. Yasmeen (PW-1) turned hostile and repudiated the allegations in her own FIR. Being illiterate, she testified that she had not written the complaint herself; instead, some neighbourhood people took her to the police station when her daughter went missing, and "some writing was done" at the thana on which her thumb impression was obtained. She identified Exhibit Ka-1 (the FIR/tahrir) as the document bearing her thumb impression, but stated its contents were not read out to her. Crucially, PW-1 denied having named anyone as accused in her report: "I did not lodge any report against Shan Khan or Assan Khan, nor did I see them take my daughter." She testified that the very next day after the alleged incident, the police informed her that her daughter had been found. At the police station, she met her daughter (victim), who told her that nobody had abducted her and that she had gone on her own. PW-1 further stated that "Shan Mohammad (accused) did not do any wrong act." She characterised the accused Shan Khan as a nephew/relative from her neighbourhood, indicating familiarity.

11. In her cross-examination (by the prosecutor, as she deviated from her previous statements), PW-1 reaffirmed that her daughter returned on her own by the next day and never claimed that Shan or anyone had lured or kidnapped her. She testified that subsequently her daughter "Z" entered into a nikah (marriage) with Shan Khan and is "now living with him; they even have a child.". She stated that at present she has no objection to this marriage. She denied having ever said to the police implicating the accused – when confronted with a purported police statement under Section 161 CrPC, she refuted it as not having been given by her. PW-1 explained that at the time of the incident, her daughter was a minor (though she could not recall the exact date of birth). She alleged that persons inimical to the accused's family had manipulated the FIR: "I later came to know that due to enmity, some people got the names of Shan Khan and Assan Khan inserted and managed to get a false case registered by taking my thumb impression.". She maintained that she did not willfully lodge a false case, but effectively conceded that the information in the FIR was unreliable. In sum, the complainant entirely disowned the prosecution's story during her

testimony, asserting that the accused had not kidnapped her daughter and that the case was lodged under a misunderstanding or pressure from others.

12. **PW-2 (Father of Victim):** Shri Akhtar Ali (PW-2), the victim's father, also turned hostile and gave testimony at odds with the prosecution's case. In his examination-in-chief, interestingly, he initially toed the line of the FIR to some extent – stating that about “4 years ago, around 4 PM, my 16-year-old daughter was alone at home (while my wife was at the market and I had gone out to get medicine), when Shan Khan lured her away. About 10-12 days later, the police recovered my daughter, recorded her statement (and also got her statement recorded in court), and she was then handed back to us. My wife had lodged the case in this regard, and the Investigating Officer recorded my statement.”. Thus, on the surface, his chief supported a kidnapping occurrence. However, in cross-examination, PW-2 completely renounced that version, claiming lack of personal knowledge and suggesting the case was fabricated by others. He stated: “At the time of lodging the report, we (parents) were not at home; we were away. My wife lodged a report at the villagers' instance. I do not know what was written in that report.” He further said, “I have no information about the details in that FIR, nor did the police ever record any statement from me.”. He confirmed that his daughter's marriage to Shan Khan had since taken place (implying a reconciliation). He emphasized that “when she married Shan, she was 18 years old.” (It appears the parents are asserting the girl was not underage at marriage, perhaps to mitigate the situation.) PW-2 echoed his wife's testimony that “some people with grudges got my wife's thumb impression and lodged a false case against Shan Khan and Assan Khan.”. He added that his daughter now has a child and is living happily with the accused. Thus, the father, too, undercut the prosecution, admitting that the FIR was filed due to pressure from others and that he had no first-hand knowledge of any abduction. His testimony effectively nullified the incriminating portions of his examination-in-chief and earlier police statement, thereby offering no support to the prosecution's case.

13. **PW-3 (Prosecutrix/Victim – Miss “Z”):** The star witness, Miss “Z” (PW-3), who was 17 years old at the time of the incident, decisively refuted any wrongdoing by the accused. In her deposition before this Court, she identified the accused Shan Khan as “my husband.” She testified that she had fallen in love with Shan and “on 01.06.2021, I willingly married him out of my own love, without my family's consent.”. Because her parents did not initially agree to the marriage, they lodged the present case against Shan Khan. She stated that upon learning of the FIR, she herself came to the police station to set the record straight, after which the police recorded her statement, conducted a medical examination, and produced her before the Magistrate for the Section 164 CrPC statement. The prosecutrix confirmed that Exhibit Ka-2 is the true copy of her 164 CrPC statement (recorded on 04.06.2021) and affirmed the same in Court when it was opened and shown to her.

14. **Her testimony in Court was entirely consistent with that earlier statement:** she categorically deposed that the accused never kidnapped or lured her at all. "Shan Mohammed never enticed or took me away by force. I married him of my own free will, and I have been living happily with him," she stated in no uncertain terms. PW-3 further revealed that currently she and the accused have a two-year-old daughter, and she is eight months pregnant with their second child – facts which strongly indicate her continuing voluntary association with the accused. She specifically denied any pressure or coercion in giving her testimony: "I am giving my statement in court today voluntarily, without any pressure, and not due to any inducement. I do not want any action against my husband Shan Mohammed.". Notably, PW-3 attempted to assert that her age was above 18 at the relevant time – she admitted that in her 164 CrPC statement, she gave her age as 16, but claimed "I stated my age as 16 on police say-so, but I was actually above 18 at that time.". (This claim appears aimed at negating the element of "minority" required for kidnapping, but even taking her radiological age as 17, her testimony absolves the accused of any illicit conduct.) In the case of [Karan @ Faitya vs. The State of Madhya Pradesh, on 3 March 2023: CRIMINAL APPEAL NOS.572-573 OF 2019](#), it was held that *the ossification test will only provide a broad assessment of age. It cannot give an exact age. There is also an element of a margin of plus or minus 1 to 2 years.* In the case of [Shyama Kant Jha vs State Of Bihar on 30 November, 2011: Criminal Appeal \(SJ\) No. 289 of 1998](#), Hon'ble Patna High Court held that *it is well settled that the age accrued by the doctor by radiological examination is not the exact age but a variation of + - 2 years then one is taken in favour of accused is required to be preferred.* In effect, the prosecutrix entirely exonerated the accused and testified that their relationship was consensual and marital, and characterised the FIR as a consequence of familial displeasure rather than a genuine crime. She stood firm, insisting that no offence as alleged had ever occurred.

15. **Investigating Officer:** The IO, SI Raja Dubey, documented the steps of the investigation in the Case Diary. He mentioned the location from which the victim was recovered and the fact that the victim's statement, recorded under Section 164 of the CrPC, was taken during the investigation. He also mentioned the age verification process. It appears the IO's investigation established that the victim was indeed a minor (around 17) as per school records or medical opinion at the time, and that a charge-sheet was submitted against Shan Khan for kidnapping. However, no substantive evidence linking the accused to an actual abduction apart from the now-retracted statements of the complainant and victim was unearthed by the IO. The IO would have ignored that the principal witnesses did not support the allegations and that no independent witness or physical evidence (such as proof of force or enticement) was available to corroborate them. (Notably, there were no other eyewitnesses to the alleged abduction, and no confession or recovery from the accused that could independently implicate him.)

16. **Hostile Witnesses:** It is evident from the above that all the key prosecution witnesses – the complainant (PW-1), the father (PW-2), and most crucially the victim (PW-3) – turned hostile and recanted their earlier accusations. Each of them, in one voice, contradicted the prosecution's case and their own prior statements made during the investigation. The mother and father not only failed to support the prosecution's story but actually asserted that the case was false and motivated. The victim outright denied that any crime occurred and instead portrayed the accused as her lawful husband with whom she willingly eloped and married. This collapse of witness support is the central feature of this trial.

Arguments of Prosecution and Defence

17. **Prosecution Submissions:** The Learned District Government Counsel (DGC) for the State urged the Court to convict the accused, notwithstanding the hostility of the witnesses. He argued that the victim was a minor (under 18) at the time of the incident, and that her alleged “consent” or willingness is legally irrelevant for the offence of kidnapping from lawful guardianship. He submitted that the witnesses – being close relatives of the accused (the prosecutrix having married him) – had been influenced or were testifying under familial pressure to exonerate the accused. The initial version in the FIR and the circumstances of the victim’s disappearance and recovery, he contended, raise sufficient suspicion that the accused took away the minor girl to marry her. The mere retraction by the witnesses, the prosecutor argued, should not automatically result in acquittal if their earlier statements and other surrounding circumstances indicate the offence was committed. The learned DGC pointed out that abduction of minor girls under the pretext of love, followed by compromised marriages, is a common phenomenon, and urged the Court not to let the accused go scot-free merely because the victim (now his wife) and her family have had a change of heart. He relied on the FIR (Ex. Ka-1) and the initial portion of PW-2’s testimony (where the father implicated the accused before backtracking) as evidence suggesting the accused’s involvement. He asserted that allowing such an accused to be acquitted would defeat justice, as it would encourage the elopement of minor girls.

18. **Defence Submissions:** On the other hand, learned defence counsel vehemently argued for acquittal, emphasising the utter failure of the prosecution to prove its case beyond a reasonable doubt. He contended that not a single material witness has supported the prosecution's story on oath, and that there is literally no admissible evidence to establish the ingredients of Sections 363 or 366 IPC against the accused. The defence stressed that the prosecutrix herself, who is the star witness, has exonerated the accused, and her testimony makes it clear that no offence was committed at all. It was pointed out that the mother (PW-1) disowned the FIR, and the father (PW-2) termed the case false, which together demolishes the prosecution’s foundation. The learned counsel argued that prior statements to police or the Magistrate have no evidentiary value in themselves when the makers of those statements (the witnesses) do not affirm them in court. He submitted

that the prosecution cannot pick fragments of hostile witnesses' prior statements to build its case – especially since those witnesses have been thoroughly discredited. He also noted the timeline: the victim was recovered within a day and immediately, in her 164 CrPC statement, denied abduction, which strongly suggests there was no truth in the original allegation from the very beginning. The defence further submitted that the story of a love affair and voluntary marriage is supported by undisputed facts (the marriage and child), and that the criminal case appears to have stemmed from an inter-family disagreement rather than any criminal intent on the part of the accused. In light of these facts, the defence maintained that the accused's right to the benefit of doubt is overwhelming. Any conviction, it was argued, would be entirely unsustainable and against the cardinal principle that an accused is presumed innocent until proven guilty beyond a reasonable doubt.

Discussion and Analysis

Credibility of Witnesses and Appreciation of Evidence

19. Having heard the rival contentions and carefully examined the evidence, this Court finds that the prosecution's case has been irretrievably shattered by its own witnesses. The foremost reason is the hostility of the crucial witnesses, as detailed above. In a criminal trial, the substantive evidence refers to the testimony that witnesses provide before the Court under oath. In the present case, all three principal witnesses (the complainant, her husband, and the victim) have recanted their previous statements and failed to support the prosecution on any material fact. Their testimonies in Court contradict the version in the FIR and their statements under Section 161/164.

20. **No Direct Evidence of "Taking or Enticing":** A fundamental ingredient of kidnapping under Section 363 IPC is that the accused must have taken or enticed the minor out of the lawful guardian's keeping. Here, the prosecutrix explicitly testified that the accused never took her anywhere by force or inducement. She stated that she left home on her own accord due to familial reasons. Similarly, PW-1 (mother) said that her daughter told her no one had abducted or led her away. Thus, the very actus reus of kidnapping is unproven-in fact, affirmatively negated-by the victim's own account. There is no eyewitness to any forcible taking; no evidence that the accused contacted or persuaded the minor to leave; and no circumstantial evidence (such as the victim being recovered from the accused's custody – in fact, she was found at a railway crossing and willingly returned). On the contrary, the evidence suggests that there was no coercion or enticement by the accused.

21. **Hostile Testimony and its Value:** It is settled law that the testimony of a hostile witness is not to be discarded wholesale; the Court may accept such portions of it that are credible and pass scrutiny ([Rohtash Kumar vs State Of Haryana on 29 May, 2013: 2013 \(14\) SCC 434](#)). However, in the present case, once the witnesses turned hostile, nothing remained that

incriminated the accused. The dependable portions of their testimonies actually favour the accused. For instance, PW-1's and PW-2's statements that the FIR was lodged under mistaken or false pretences, and PW-3's statement that no abduction occurred, are entirely consonant with the defence. The prosecution tried to impeach its witnesses by confronting them with prior statements, but those prior statements (to police or even the Magistrate) do not constitute substantive evidence. They could at best be used to challenge credibility or to corroborate other evidence, if the witnesses had supported the core story to some measure, which they did not. Here, the prosecution has no other evidence (such as forensic or independent testimony) to corroborate the allegation of kidnapping. Therefore, once the witnesses retracted, the prosecution's case stands eviscerated. The Court finds no part of the hostile witnesses' testimony that could be selectively relied upon to sustain a conviction. On the contrary, each key witness has "entirely demolished the prosecution version", leaving the Court with no option but to doubt the prosecution case.

22. **Motive for Hostility:** It is apparent that the victim and the accused are now married and have a family. This provides a plausible reason why the victim and her parents have backtracked on the allegations – they likely wish to protect the marriage and the accused from punishment. While the Court is conscious that witnesses sometimes turn hostile due to coercion or tutoring, in this case, their consistent narrative (that no crime occurred and the case was false) has remained unshaken even under cross-examination. The mother and father provided detailed explanations stating that villagers instigated the FIR and that they had never actually witnessed or consented to the allegations. The victim, too, gave a coherent account of a voluntary elopement and marriage. These explanations have a ring of truth in the context of this case, where it seems the initial police case was triggered by the sudden disappearance of a minor girl, but once she resurfaced married to the accused, the family reconciled to the situation. In any event, even if one suspects that the family has "compromised" the matter, the Court cannot base a conviction on suspicion or the remnants of a discredited FIR. The law demands evidence, and that is woefully lacking here.

23. **Lack of Corroboration:** The prosecution did not present any independent witness (for example, someone who saw the accused with the girl on May 31, 2021) or any circumstantial evidence, such as CCTV footage or call records, etc., that might implicate the accused. The entire case hinged on the testimony of the family and the victim. All of them have not only failed to support the case but have negated it. There is also an absence of medical evidence of any harm or sexual offence (the victim declined medical examination and anyway alleged no sexual assault). The recovery was effected within hours, and the victim did not accuse the defendant at that earliest point. Thus, there is a complete lack of substantive evidence linking the accused to a forcible kidnapping or an abduction with intent to marry through compulsion.

24. **Contradictions and Improvements:** There are material contradictions between what was alleged in the FIR and what was deposed in Court. In the FIR, the mother (PW-1) reportedly named Shan Khan and others as abductors. In Court, she denied even knowing the contents of that report and specifically denied naming the accused. The father (PW-2) in Court contradicted his own initial testimony within minutes – first claiming his daughter was taken by the accused, then admitting he actually did not know, and others fabricated the case. Such flip-flops render their testimony wholly unreliable for the purpose of supporting the prosecution. The victim's version in Court matches her 164 CrPC statement (denying abduction), but is diametrically opposed to the prosecution's abduction theory. In view of these irreconcilable contradictions, the Court finds that no conviction can safely be based on this vacillating and incongruous evidence.

25. **Legal Effect of Resiled Testimony:** Our criminal justice system accords primacy to the evidence given at trial, under the scrutiny of cross-examination, over earlier statements. When a witness recants from a previous statement (e.g. a 164 CrPC statement) and that earlier statement is not affirmed in material particulars in court, the earlier statement has no independent probative value to convict. The Hon'ble Supreme Court and various High Courts have clarified this legal position. No person accused of rape or kidnapping can be convicted if the witnesses, especially the victim or her parents, do not support the prosecution's case or give quality evidence. Since the star witness and her father have recanted, the conviction of the accused is no longer possible. This principle squarely applies here – the prosecutrix and her parents have not supported the prosecution at all. There is thus no legally admissible evidence on record to establish the charges. In the case of [Kali Ram vs State Of Himachal Pradesh, on 24 September 1973: \(1973\) 2 SCC 808](#), the Hon'ble Apex Court held that the Court cannot invent proof that is not produced, nor can it punish someone based on moral convictions or suspicions unsupported by facts on record.

Legal Principles and Reasoning

26. **Burden of Proof and Reasonable Doubt:** It is a cardinal principle of criminal jurisprudence that an accused is presumed innocent until proven guilty. The burden lies solely with the prosecution to prove the accused's guilt beyond a reasonable doubt, and this burden never shifts. In the present case, the prosecution has patently failed to discharge this burden. The evidence has not only fallen short of the “beyond a reasonable doubt” standard – it has all but evaporated. The Apex Court in Kali Ram (supra), famously underscored: “One of the cardinal principles of our justice system is that a person arraigned as an accused is presumed innocent unless proved guilty. The burden of proving guilt is upon the prosecution, and unless it relieves itself of that burden, the Court cannot record a conviction. If two views are possible on the evidence – one pointing to guilt and the other to innocence – the view favourable to the accused should be adopted. Further, if the Court entertains a reasonable doubt regarding the guilt, the accused

must have the benefit of that doubt. This “golden thread” of giving the benefit of doubt to the accused runs through the web of our criminal law.”

27. Applying these principles, it is evident that, at the very least, there is ample doubt in this case regarding the accused’s involvement in any kidnapping or abduction. In fact, the evidence more strongly suggests his innocence (as per the sworn testimonies). There is certainly no credible evidence to show guilt. Therefore, it would be against the tenets of justice to hold the accused guilty when the prosecution’s own evidence exonerates him. Wrongful acquittals are undesirable, but wrongful convictions are worse – the law would rather let a guilty person go free than convict an innocent one. Here, the prosecution’s failure means that the accused cannot be lawfully held guilty.

28. **Section 363/366 IPC – Ingredients Not Proved:** To briefly recapitulate the legal ingredients: Section 363 IPC requires proof that the accused took or enticed a minor female (under 18) out of her guardian’s keeping without consent ([Venkatesha & Ors. vs. State of Karnataka on 9 January 2025: 2025 INSC 103](#)). Section 366 IPC further requires that such kidnapping or abduction was with the intent that she may be compelled to marry against her will or forced to illicit intercourse. In the case at hand, intent becomes moot because the primary act of kidnapping/abduction itself is unproven. Even so, the evidence indicates the prosecutrix entered marriage willingly (thus not “compelled” by the accused against her will, but rather the opposite – she was willing, and it was the guardians who were initially unwilling). Thus, neither the actus reus nor the mens rea of the charged offences can be deduced from the evidence on record. The Court is mindful that even the consent of a minor is not legally recognised; however, here the point is that no unlawful taking by the accused is proved at all. It would be a perversion of justice to hold that a minor was kidnapped when she herself says she ran away due to family issues and not due to any allurement by the accused (Please see [S. Varadarajan vs State Of Madras on 9 September, 1964: AIR 1965 SUPREME COURT 942](#)).

29. **No External Evidence to Rescue Prosecution:** Sometimes, even if hostile witnesses retract, a conviction can still be sustained if there is other clinching evidence (for example, unimpeachable forensic evidence or third-party eyewitnesses). In this trial, there is none. The entire prosecution's case rested on the testimony of the family. Once they recanted, the prosecution was left empty-handed. The Court cannot speculate or fill in gaps for the prosecution. Continuing a criminal trial in the hope that something might turn up, when the chance of conviction is bleak, serves no purpose and only wastes judicial time. In the present matter, by the close of prosecution evidence, it was evident that the case was unsustainable – so much so that even the examination of the accused under Section 313 CrPC was formally dispensed with in view of the lack of any incriminating evidence on record (or, otherwise, only a perfunctory examination was conducted wherein the accused maintained his innocence).

30. **Benefit of Doubt to Accused:** In light of the above analysis, the Court finds that the prosecution has failed to prove the charges against Shan Khan beyond a reasonable doubt. On the contrary, the evidence produced in the mind of the Court not just doubt, but the affirmative impression that the alleged kidnapping likely did not occur in the manner suggested. At the very least, there is a profound and unresolvable doubt on every element of the offence. In consonance with the well-established principle laid down in Kali Ram (supra) and numerous other precedents, such doubt must enure to the benefit of the accused. The law does not permit convicting a person on half-baked evidence or on moral convictions unsupported by legal proof. Therefore, this Court is duty-bound to acquit.

Conclusion

31. In conclusion, the prosecution has failed to substantiate the charges under Sections 363 and 366 of the IPC against the accused. All essential ingredients of the offences remain unproven. The testimonies of the prime witnesses have undermined the prosecution's case instead of supporting it. There is no credible evidence on record to implicate Shan Khan in the alleged crime. Accordingly, based on the foregoing discussion and the totality of circumstances, this Court finds Shan Khan not guilty of the offences charged. He is entitled to an acquittal.

Order: The accused Shan Khan s/o Walim Khan alias Balle is hereby acquitted of the charges under Sections 363 and 366 of the IPC. He is on bail. Compliance of Section 437-A CrPC is directed – the accused shall furnish a personal bond in the sum of ₹20,000/- with two sureties in the like amount, binding him to appear before the higher court as and when called upon, within the next six months, in case of an appeal. Upon furnishing the bond, the existing bail bonds shall stand cancelled, and the sureties shall be discharged.

Judgment Signed, Dated and Pronounced in Open Court today on 29.08.2025.

(Chandroday Kumar)
Sessions Judge, Kannauj.