

**IN THE COURT OF MS. SHAVETA THAKUR, PCS,
JUDICIAL MAGISTRATE IST CLASS, NANGAL,
DISTT. RUPNAGAR (PB0537)**

CNR NO.	PBROB1-000826-2019
CHI No.	CHI/158/2019
Date of Institution	03.10.2016
Date of Decision	11.07.2022

State	Versus	1. Kundan Lal @ Ghanti aged about 35 years, S/o Piare Lal, R/o House No.557 Indra Nagar, District Ropar. 2. Gurnam Singh @ Gogi aged about 26 years, S/o Jagat Ram R/o Village Bhanam PS Nangal now residing at house No.292/93, FF Block, Nangal, PS Nangal District Ropar. ...Accused
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**FIR No.72 Dated: 11.05.2016
Under Section 457, 411, 380 IPC
Police Station : Nangal, Rupnagar.**

Present: Ms. Amarjit Kaur, Ld. APP for the State.
Accused Kundan Lal on bail with counsel Sh. Rajiv Rana Adv.
Accused Gurnam Singh on bail with counsel Sh. Shubham Verma Adv.

JUDGEMENT :

The above-named accused have been forwarded by the Officer In-charge, Police Station Nangal, Distt. Rupnagar before this court to face trial for commission of offences punishable under Sections 457, 380, 411, 34 of Indian Penal Code, 1860 (*hereinafter referred to as 'IPC'*) in case bearing F.I.R.No. 72 dated:11.05.2016, P.S. Nangal, Distt. Rupnagar.

2. Prosecution version as unfolds from final report U/S 173 Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C.'*) is that on

11.05.2016 HC Kehav Kumar along with other police party, was present at Staff Club Chawk Nangal in connection with patrolling and checking of bad elements, where they met Balbir Kumar S/o Thakur Dass, R/o H. No. 7, W Block, Nangal Township Teh. Nangal Distt. Rupnagar, complainant who recorded his statement to the effect, "that he is resident of above mentioned address and is working in CID Wing in BBMB Nangal. On intervening night of 04/05.04.2016 he along with his family members had gone to ancestral village Bhallan and had locked his apartment. When on 05.04.2016 he returned to his apartment then he found that lock of door was broken and one laptop make Dell silver colour, one gas cylinder make Indane, one Gold Ring and one mobile phone black in colour make Samsung have been stolen by unknown persons. He along with his family have been searching out for the person who have committed theft but of no avail. Thus, necessary legal action shall be taken against all the accused." Complainant was read over his statement which he signed after admitting it to be correct. On the basis of the statement offences U/S 457, 380,411, 34 IPC are made out. Ruqa for registration of FIR under above mentioned sections was sent. FIR registered, rough site plan prepared.

3. On 12.05.2016 accused Gurnam Singh @ Gogi got arrested and made disclosure statement under Section 27 of Indian Evidence Act. On the basis of disclosure statement one laptop make Dell silver colour and Gold Ring, one Gas cylinder make Indane got recovered. Recovery memo got prepared. His arrest-cum-intimation memo and personal search memo got prepared. On 22.05.2016 accused Kundan Lal @ Ghanti S/o Piare Lal R/o

H.No.557 Indira Nagar, Nangal got arrested. During interrogation he made a disclosure statement under Section 27 of Indian Evidence Act and got recovered one mobile phone make Samsung. Recovery memo prepared. His arrest-cum-intimation and personal search memo got prepared. On 08.06.2016 complainant produced bill of stolen gold ring along with photocopy of bill of laptop and Indian Gas customer Sr. No.026813063 which is in the name of complainant and taken into police possession. Complainant identified stolen articles vide separate identification memo.

4. Statement of witnesses under sec.161 Cr.P.C recorded. On completion of investigation and other formalities, **challan report under Section 173 Cr.P.C for offences of under Sections 457, 380, 411, 34 IPC against accused Kundan Lal @ Ghanti and Gurnam Singh @ Gogi presented in the Court.**

5. On appearance of accused in court, copies of all documents sent along with report under sec.173 Cr.P.C. and relied upon by prosecution were supplied to them free of costs as per mandatory requirement of section 207 Cr.P.C.

6. From the perusal of report under sec.173 Cr.P.C and documents and after hearing learned A.P.P. for State and ld. defence counsel, sufficient grounds were made out to initiate trial against accused, for commission of offences punishable under sections 457, 380, 411 & 34 of Indian Penal Code and charges were framed accordingly on 10.03.2017, to which they pleaded not guilty and claimed trial.

7. In order to bring home guilt of accused prosecution examined, **PW-1 Balbir Kumar, Complainant** who deposed on the lines of prosecution case while reiterating his statement U/S 161 Cr.P.C. and proved application moved by him Ex.PA. Complainant further proved identification memos of recovered stolen articles Ex.PW1/A and brought case property i.e. one gold ring Ex.P1, one laptop make Del Ex.P2, one mobile phone make Samsung Ex.P3 and one Indane Gas Cylinder Ex.P4 along with recovery memo Ex.PW1/B of bills. Witness further proved bill of gold ring mark A, bill of laptop mark B and copy of Gas mark C.

Then prosecution examined **PW2 Ct. Amardeep Singh, recovery witness** who proved disclosure statement of accused Kundan Lal under Section 27 of Evidence Act Ex.PW2/A and recovery memo of stolen article Ex.PW2/B and identified his signatures on both.

Then prosecution, further examined **PW2 (re-numbered) Ct. Prem Kumar recovery witness** who being attesting witness to disclosure statement Ex.PW2/A and recovery memo Ex.PW2/B identified his signatures and further proved arrest-cum-intimation memo and personal search memo of accused Kundan Lal Ex.PW2/C and Ex.PW2/D and further identified case property Ex.P1 to Ex.P4.

Then **PW3 ASI Balram** got examined who deposed that on 12.05.2016 he was posted as MHC at PS Nangal. On that day IO HC Keshav Kumar had deposited the case property i.e. one laptop make dell silver in colour, one gold ring, one empty gas cylinder make Indane and made entry of the same in register No.19 at Sr.448 after depositing same in police

malkhana. Witness further deposed on 22.05.2016 HC Keshav Kumar deposited one mobile phone make samsung black colour and he made entry in register No.19 at Sr. No.455 after depositing the same in police malkhana.

Thereafter, **PW5 Ct. Varinder Kumar another recovery witness** got examined who proved arrest-cum-intimation memo and personal search memo of accused Gurnam Singh @ Gogi as Ex.PW6/E and Ex.PW6/F, disclosure statement Ex.PW6/G made by accused Gurnam Singh@ Gogi and identified his signatures over said memos. Witness further proved recovery memo of stolen articles Ex.PW6/H and recovery site plan Ex.PW6/I.

Then, **PW6 ASI Keshav Kumar, investigating officer** who proved sequence of investigation along with necessary documents i.e. complaint Ex.PA, police proceedings Ex.PW6/A, ruqa Ex.PW6/B, FIR Ex.PW6/C, site plan Ex.PW6/D, case diary of FIR No.66 PS Nangal mark A, personal search memo of arrest-cum-intimation memo of accused Gurnam Singh @ Gogi Ex.PW6/E, Ex.PW6/F and disclosure statement Ex.PW6/G recovery memo of stolen articles Ex.PW6/H, recovery site plan Ex.PW6/I, personal search memo and arrest-cum-intimation memo of accused Kundan Lal Ex.PW2/D and Ex.PW2/C (already exhibited) along with his disclosure statement Ex.PW2/A and recovery memo of stolen articles Ex.PW2/B along with site plan Ex.PW6/J, identification memo Ex.PW1/A, recovery memo of bills of stolen articles Ex.PW1/B along with case property Ex.MO1 to Ex.MO4.

Lastly, prosecution examined **PW7 Punit Saini Clerk at Suresh Indane Gas Agency, Naya Nangal** who brought summoned record pertaining

to blue book bearing customer No.CX26815063 in the name of Balbir Kumar S/o Thakur Das R/o village Bhallan Tehsil Nangal, District Rupnagar and proved copy of the blue book mark-A on file. Since prosecution failed to conclude its evidence despite availing numerous effective opportunities, evidence of prosecution closed by the order of Court vide order dated 11.05.2022.

8. Statement under Section 313 Cr.P.C recorded wherein all incriminating evidence was put to them to which they pleaded false implication and their innocence. Accused opted to lead defence evidence. However, closed defence evidence without examining any witness.

9. I have heard submissions put forth by Ld. APP and Ld. defence counsel and have also gone through prosecution evidence and documents on record carefully and minutely with their able assistance. From the entire case, following points for determination arises:

1. Whether in the intervening night of 04/05.05.2016, in the area of 7-W Block Nangal Township you both accused committed theft of laptop make Dell, one gas cylinder make Indane, one gold ring and one mobile phone make Samsung belonging to complainant by breaking into the house of complainant and thereby, committed offence punishable under Section 380 IPC read with Section 34 IPC ?
2. Whether on same day, time and place you all accused in furtherance of common intention committed the offence of house lurking after sun set and before sun rise by entering into the house of Balbir Kumar complainant after breaking open the locks for the purpose of committing theft and thereby, committed offence punishable under section 457 IPC read with Section 34 IPC?
3. Whether, on 22.05.2016, you accused Kundan Lal @ Ghanti found in

possession of stolen article i.e. one mobile phone make samsung onwership of complainant at your house 557 Indira Nagar Nangal Township, Teh. Nangal and on 12.05.2016 you accused Gurnam Singh found in possession of one laptop make Del silver colour, one gold ring, one gas cylinder make Indane, in the area of village Bhanam belonging to complainant and you both retained the same in your possession knowingly or having reason to believe the same to be stolen property and thereby you committed an offence punishable U/S 411 read with Section 34 of IPC ?

4. Whether evidence led by prosecution is sufficient to convict the accused under sec. 457, 380, 411 & 34 IPC?

POINT NO.I & 2 FOR DETERMINATION :-

10 Both points for determination have been taken up together for the sake of brevity to avoid repetition being interconnected-interlinked based on appreciation of common evidence. Ld. APP for State while referring to testimony of PW-1 Balbir Kumar complainant along with PW6 ASI Keshav Kumar, PW2 Ct. Amardeep and PW2 (re-numbered) Ct. Prem Kumar submitted that it is duly proved on record that one laptop make Dell silver colour, gold ring, gas cylinder make Indane and one mobile phone make Samsung Black colour were stolen by both accused from the house of complainant in furtherance of their common intention and later on same were recovered and found in possession of accused. It is further submitted that since recovery from accused has been proved and accused failed to explain the source of its acquisition, it is to be presumed that one laptop make Dell silver colour, gold ring, gas cylinder make Indane and one mobile phone make Samsung Black colour were stolen by the accused. While

submitting that charges against accused U/S 457, 380, 34 and 411 IPC have been proved beyond all reasonable doubt, Ld. APP has prayed for conviction of all accused and sentence with maximum punishment provided under law.

11. While refuting the submission raised by Ld. APP, it has been submitted by Ld. Defence counsel for both accused that there is no evidence whatsoever, of the alleged theft and recover against them. It is further argued that that name of the accused have been arrayed on the basis of disclosure/confessional statement which is not admissible being hit by Section 25 of the Indian Evidence Act. It is further argued that the recovery as shown is implanted upon accused to falsely implicate them as both accused were in custody at that time when recovery of stolen article as alleged is effected. Further, there is delay of seven (7) days in registration of FIR which remains unexplained by the prosecution and benefit of the same is to be given to accused. It is next argued that no eye witness of alleged theft is examined by the prosecution. Further, no independent witness of alleged recovery is examined. Therefore, in absence of any eye witness of alleged theft and recovery from both the accused, prosecution fails to prove its case beyond shadow of reasonable doubt. Submitting that prosecution has failed to prove its case beyond shadow of reasonable doubt, a prayer of acquittal of accused is made.

12. On giving thoughtful consideration to rival submissions made by Ld. APP for the State as well as Ld. Defence counsel, this court has minutely scrutinized the oral and documentary evidence and after going through the entire record otherwise available on the file, is of the considered

view that it is the burdened duty of prosecution to prove its case beyond reasonable doubt. Accused has constitutional right to remain silent in the course of trial and if any doubt is created in the case of prosecution, thus benefit of it must be given to accused.

13. Having heard submission put forth by Ld. APP for State and Ld. defence counsel, perusal of case file reveals that accused have been charged with offence of committing theft in the house of Balbir Kumar complainant, in furtherance of their common intention by breaking into house of complainant after sun set and sun rise. Further, stolen article i.e. one laptop make Dell silver colour, gold ring, gas cylinder make Indane and one mobile phone make Samsung Black colour, stolen from the house of complainant has been recovered from accused Gurnam Singh @ Gogi and Kundan Lal @ Ghanti from their respective houses and therefore, they have been charged with offence punishable U/S 411 IPC.

Firstly, so far as, allegation against four of the accused for offences U/S 457, 380 read with sec.34 IPC are concerned, as per the prosecution version complainant Balbir Kumar on 04.05.2016 he along with his family had gone to his ancestral village Bhallan Nangal and had locked door of his apartment No.7W Block Nangal Township. On 05.05.2016 when he came back, he got to know regarding alleged theft on the intervening night of 04/05.2016. When on 05.04.2016 he returned to his apartment then he found that lock of door was broken and one laptop make Dell silver colour, one gas cylinder make Indane, one Gold Ring and one mobile phone black in colour make Samsung have been stolen by unknown persons.

Complainant has stood by said version while appearing as prosecution witnesses PW-1. Therefore, from the testimony itself, it transpires that firstly, there is no witness who has seen the accused committing theft as alleged by the prosecution in the house of complainant. There is no witness who has seen the accused entering into the house of complainant in the intervening night and thereafter, breaking open the locks of house of complainant and committing theft. Further, even in statement U/S 161 Cr.P.C., complainant stated that some unknown persons committed theft at his house. If cross-examination of PW-1 is scrutinized, complainant has categorically stated that names of accused were disclosed by the police. Further, prosecution has relied upon the confessional, disclosure statements of accused, however, such statements of accused admitting/confessing their guilt of having committed theft, cannot be read against them or any other accused as evidence of theft being hit by provisions of Section 25 and 26 of Indian Evidence Act 1872. Furthermore, as discussed above in order to prove commission of offence, no eye witness of occurrence has been cited by prosecution who might have seen the accused committing the offence of theft by breaking open the locks of house of complainant after sun set and before sun rise as alleged. Moreover, recovery as alleged by prosecution and arrest of the accused is not from the spot at the time of occurrence so to raise presumption of theft on the basis of recovery.

14. Moreover, in criminal cases the burden of proof on the prosecution is high as the prosecution has to prove its case beyond shadow of reasonable doubt. Moreover, our criminal system is adversarial in nature,

wherein it advocates the principle that *“it is better that ten guilty person escape than that one innocent suffer.”* It is always more important that the innocent should be protected, than it is, that guilty should be punished. Therefore, so far as the question of commission of theft as alleged is concerned, the court is of the view that prosecution has miserably failed to prove offence U/S 457, 380 IPC and therefore, point of determination under head (1) & (2) stands answered accordingly.

Point of Determination no. 3: -

15. So far as question of recovery is concerned, as per the prosecution version entailed in report U/S 173 Cr.P.C., accused Gurnam Singh @ Gogi has been charged with offence U/S 411 IPC since he was found in possession of stolen one laptop make Dell silver colour, gold ring, gas cylinder make Indane and retained the same in his possession knowingly or having reason to believe the same to be stolen and accused Kundan Lal @ Ghanti has been charged with offence under Section 411 IPC since he was found in possession of stolen mobile phone make samsung from his house and retained the same knowingly or having reason to believe the same to be stolen.

16. So far as question of recovery is concerned, as per the prosecution version On 12.05.2016 accused Gurnam Singh @ Gogi got arrested and made disclosure statement under Section 27 of Indian Evidence Act. On the basis of disclosure statement one laptop make Dell silver colour and Gold Ring, one Gas cylinder make Indane got recovered from his house.

Said stolen articles were taken into police possession vide recovery memo Ex.PW6/H.

On 22.05.2016 accused Kundan Lal @ Ghanti S/o Piare Lal R/o H.No.557 Indira Nagar, Nangal got arrested. During interrogation he made a disclosure statement under Section 27 of Indian Evidence Act and got recovered one mobile phone make Samsung. Said stolen mobile phone was taken into police possession vide recovery memo Ex.PW2/B.

In order to prove recovery, prosecution examined **PW6 Keshav Kumar Investigating officer** who proved recovery memo of stolen article PW6/H from accused and PW2/B of stolen articles recovered from accused Kundan Lal @ Ghanti and both recovery memos have been witnessed by PW2 Ct. Amardeep Singh and PW2 (re-numbered) Ct.Prem Kumar recovery witnesses who identified their signatures over recovery memos. Further, it is to be noted that during investigation PW1 Balbir Kumar complainant identified the stolen articles vide identification memo Ex.PW1/A. To complete the link evidence to prove that case property was handled with care and caution, properly at every stage of the trial, PW3 ASI Balram got examined who has deposed that on 12.05.2016 when recovery got effected from accused Gurnam Singh @ Gogi, IO HC Keshav Kumar deposited the case property with him in police malkhana and accordingly, he made entry in register No.19 at Sr. No.448 whereas recovered stolen article i.e. mobile phone make samsung black colour recovered on 22.05.2016 deposited with PW3 and he made entry in register No.19 at Sr. No.455. It is to be noted that the recovery have been effected from both the accused from their houses.

Said fact is not rebutted by the defence in any material aspect beside that disclosure statements were made while accused were already in custody in FIR No.66 dated 05.05.2016. So far this argument of defence is concerned, police proceedings in FIR No.66 dated 5.05.2016 Mark A are placed on file which transpires that the accused Kundan Lal @ Ghanti got arrested on 11.05.2016 whereas date of theft is 04.05.2016. Therefore, rules out the possibility of implanting false recovery as when alleged theft in question is committed, there is no material on record to presume that the accused was in custody at that time. Furthermore, recovery has been effected on the basis of disclosure statement made by the accused. So far as, the disclosure statement under Section 27 of IEA is concerned, the statement is relevant only to the extent of recovery and therefore argument that accused was in custody at that time in another FIR is not tenable as accused was produced in court or production warrants and thereafter he suffered disclosure statement.

17. In order to prove ownership of stolen one laptop make Dell silver colour, one gas cylinder make Indane, one Gold Ring and one mobile phone black in colour make samsung, prosecution firstly examined complainant Balbir Kumar PW-1 who has identified the above said stolen articles by identification memo Ex.PW1/A and got released said stolen articles on sapurdari. Further copies of bills of gold ring and laptop mark A, Mark B and copy of gas Mark C also taken into police possession by IO vide memo Ex.PW1/B. Further in order to prove ownership of Gas Cylinder prosecution examined PW7 who brought record pertaining to blue book customer Number CX26815063 in the name of Balbir Kumar-complainant

and proved its copy mark C on its file. As such, from the evidence on record it stands proved that stolen one laptop make Dell silver colour, one gas cylinder make Indane, one Gold Ring and one mobile phone black in colour make Samsung recovered from the accused Kundan Lal @ Ghanti and Gurnam Singh @ Gogi belongs to Balbir Kumar complainant. Accused Gurnam Singh @ Gogi and Kundan Lal @ Ghanti on the other hand has failed to account for possession of stolen one laptop make Dell silver colour, one gas cylinder make Indane, one Gold Ring and one mobile phone black in colour make samsung from their possession. Furthermore, it is also proved that on being asked to show documents regarding ownership of stolen laptop make Dell silver colour, one gas cylinder make Indane, one Gold Ring and one mobile phone black in colour make samsung, accused failed to produce any such document. Further, recovery has been effected from house of both the accused and defence has failed to lead any evidence that the said houses were not owned and possessed by both the accused at relevant point of time of recovery.

18. It is argued by defence that confessional/disclosure statement is not admissible in evidence. Although, confessional/disclosure statement of accused regarding confession of their guilt cannot be read against them or any other accused as evidence or theft being hit by the provision of Section 25 and 26 of Indian Evidence Act, however, the disclosure statement can be accepted to the extent as permissible U/S 27 of Indian Evidence Act so to say that the information only in so far as it distinctly relates to recovery, is admissible. It has been on record that stolen one laptop make Dell silver

colour, one gas cylinder make Indane, one Gold Ring and one mobile phone black in colour make samsung is recovered from the house of accused Gurnam Singh @ Gogi and Kundan Lal @ Ghanti respectively. Recovery memo has been proved by PW-6, Investigating officer. Moreover, recovery of stolen laptop make Dell silver colour, one gas cylinder make Indane, one Gold Ring and one mobile phone black in colour make samsung have been effected at the instance of accused on the basis of disclosure statement made by them precisely, for this reason charges U/S 411 IPC qua stolen one laptop make Dell silver colour, one gas cylinder make Indane, one Gold Ring and one mobile phone black in colour make samsung have been framed against accused Gurnam Singh @ Gogi and Kundan Lal @ Ghanti respectively. Moreover, it is on record that accused has failed to lead any evidence showing that recovered stolen articles belongs to them. Further, even in cross-examination of investigating officer, no specific question was posed to him with regard to recovery effected from accused, though general questions with regard to place of recovery and non -joining of independent witnesses were asked.

19. Although, in statement recorded U/S 313 Cr.P.C. false implication have been pleaded but defence failed to point out any specific reason which motivated the investigating agency to falsely implicate the accused and to plant false recovery upon him. So far as non joining of an independent witness is concerned, it has been observed by Hon'ble Supreme Court in *Appabhai and Anr. v. State of Gujrat* AIR 1988 SC 696 that, “prosecution case cannot be thrown out only on the ground of non joining of

independent witness as civilized people are generally insensitive when a crime is committed even in their presence. The court, therefore, instead of doubting the prosecution case for want of independent witness must consider the broad spectrum of the prosecution version and then search for the nugget of truth with due regard to probability if any, suggested by the accused.”

Reference may also be made to judgment of Hon'ble Punjab and Haryana High Court in, ***Sheela @ Karan Singh v. State of Haryana***, 2010 (1) RCR (Criminal) 315, wherein it was observed:

“The mere fact that the evidence of the official witnesses, was not corroborated, through an independent source, could not be said to be sufficient to disbelieve and distrust the same. In the face of the evidence of the official witnesses only, the Court is put on guard, to scrutinize the same, carefully and cautiously. After careful and cautious scrutiny of the evidence, if the Court comes to the conclusion, that the same does not suffer from inherent infirmities, the same can be believed.”

20. It is further argued by defence that there is delay of Seven (7) days in registration of FIR. So far this argument of defence is concerned, it is pertinent to mention that as per the version of prosecution complainant, he came to know about alleged theft 04.05.2016 and thereafter, he along with his family tried to search out for accused who committed theft in his house. Thereafter, he registered FIR on 11.05.2016. Thus, this court is of the view that the delay in registration of FIR in the present case is not fatal to the case of prosecution for two reasons, firstly, delay has duly been explained, and

secondly, recovery of stolen articles from one of the accused is proved on record. Thus, the arguments of defence does not hold any ground.

21. Hence, in view of foregoing discussion, from the testimony of PW-1, PW-6 and PW-2 it is duly proved that accused Gurnam Singh @ Gogi was found in possession of stolen one laptop make Dell silver colour, one gas cylinder make Indane, one Gold Ring and accused Kundan Lal @ Ghanti was found in possession of stolen one mobile phone black in colour make samsung and they both retained the same having reason to believe the same to be a stolen property. Therefore, ingredients of offence punishable U/S 411 IPC, stands fulfilled against accused Gurnam Singh @ Gogi and accused Kundan Lal @ Ghanti. As such, point of determination of (III) stands answered accordingly.

POINT of Determination No. (4)

22. In light of foregoing discussion, this court shall now examine if the offences with which accused are charged are made out or not. Factum of recovery from accused Gurnam Singh @ Gogi and Kundan Lal @ Ghanti have been proved by the prosecution as held in discussion under point no.3 and no evidence has been led by the accused to explain the source of accusation/possession of said stolen one laptop make Dell silver colour, one gas cylinder make Indane, one Gold Ring and one mobile phone black in colour make samsung respectively and retained the same having reason to believe the same to be a stolen property. Therefore, ingredients of offence punishable U/S 411 IPC, stands fulfilled against accused Gurnam Singh @ gogi and Kundan Lal @ Ghanti. Whereas, as discussed under Point (I) and

23. Hence, in view of foregoing discussion accused Gurnam Singh @ Gogi and Kundan Lal @ Ghanti stands acquitted of the charges framed against them under Sec.457, 380 read with Section 34 IPC whereas accused stands convicted for commission of offence punishable under Section 411 IPC. Let, convicts be heard on quantum of sentence. File be put up at 2:00 PM for this purpose. Be taken into custody till then.

**Pronounced in open Court
on 11th July, 2022**
(Priya, Steno-II)

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(Shaveta Thakur), PCS,
Judicial Magistrate Ist Class.
Nangal/UID No.PB0537

Order of Sentence

Present: Ms. Amarjit Kaur APP for the State.
Convict Gurnam Singh @ Gogi and Kundan Lal @ Ghanti in
custody with Sh. Rajiv Rana, Adv..

Convict Gurnam Singh @ Gogi and Kundan Lal @ Ghanti have been convicted for commission of offence punishable under section 411 IPC. It has been submitted by learned counsel for the convict that they are first offender, having no previous criminal history. It is next submitted that convict are a poor persons. Accordingly, a prayer have been made to take lenient view on sentence. On the other hand learned APP has submitted that convicts should be afflicted maximum punishment as the convicts have retained stolen articles knowingly the same to be a stolen property.

2. While passing an order of sentence, Court has to consider the circumstances of the convict and a balanced approach has to be taken, which justifies the sentence imposed considering the acts done and consequences that ensued. Considering that as per the record, the convicts Gurnam Singh @ Gogi and Kundan Lal @ Ghanti have already spent sufficient time in custody and since year 2016 facing the agony of trial. Therefore, keeping in view the nature of the offence and antecedents and age of the convicts, they are sentenced to undergo RI of Imprisonment already undergone by them during the trial of the case for having committed the offence punishable under 411 IPC. Convicts be set free if not required in any other case. Case

**Pronounced in open Court
on 11th July, 2022**
(Priya, Steno-II)

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 (Shaveta Thakur), PCS,
 Judicial Magistrate Ist Class.
 Nangal/UID No.PB0537

Present: Ms. Amarjit Kaur, Ld. APP for the State.
Accused Kundan Lal on bail with counsel Sh. Rajiv Rana Adv.
Accused Gurnam Singh on bail with counsel Sh. Shubham
Verma Adv.

Convicts sentenced to undergo RI of Imprisonment already undergone by them during the trial of the case for having committed the offence punishable under 411 IPC. Convicts be set free if not required in any other case. Case property be disposed of after expiry of period of appeal. Copy of judgement supplied to convicts free of costs. File be consigned to record room Anandpur Sahib, after due compliance as per rules.

(Priya, Steno-II)

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(Shaveta Thakur), PCS,
Judicial Magistrate Ist Class.
Nangal/UID No.PB0537