

**IN THE COURT OF SH. JASPREET SINGH, PCS, (UID:PB0418)
JUDICIAL MAGISTRATE FIRST CLASS, RAJPURA.**

P. ChallanNo.77RBT/06.06.2017/06.05.2021

CIS No. CHI-147-2017

Date of decision: 28.03.2023

State of Punjab

Versus

1. Bhupinder Singh son of Bahadar Singh resident of Ward No.5,
Ghanaur.
2. Vijay Kumar son of Ami Chand resident of Village Ullana, P.S.
Ghanaur.

..Accused

FIR No. 21 dated 18.04.2017

Under Sections 379, 411 & 473 of IPC

Police Station : Ghanaur.

Present: Sh. Jitender Singh, APP for the state.
Accused on bail with legal aid counsel Mrs. Sushma Singla
Advocate.

JUDGMENT

The SHO of Police Station Ghanaur, has forwarded the above
named accused to face trial Under Sections 379, 411 & 473 of IPC.

2. Brief facts of the case of prosecution is that on 18.04.2017 a
secret information was received by ASI Balbir Singh that two persons
namely Bhupinder Singh and Vijay Kumar are riding a stolen motor-cycle
with a forged number plate bearing Registration No.PB11BL5286 near
Village Ullana. Upon the receipt of secret information rukka sent to the
police station and naqa was laid down. After a while two persons seen on
a motor-cycle coming towards the naqa. I.O. signaled them to stop the
driver of the motorcycle bearing Registration no.PB-11-BL-5286. They
tried to escape but was apprehended at the spot. They could not show the

ownership documents of the motorcycle and upon further interrogation they disclosed that the motorcycle is a stolen vehicle from the parking of Punjabi University. Thereafter, motorcycle was taken into possession and the accused persons were arrested. FIR was registered. Statement of witnesses were recorded. After completing the entire investigation, offence U/s 379, 411 & 473 of Indian Penal Code is made out against the accused persons and challan U/s. 173 Cr.P.C was presented against them in the Court.

3. Upon presentation of the challan, copies of challan and other document were supplied to accused persons free of costs as required under Section 207 of the Cr.P.C.

4. Thereafter, finding a prima facie case for commission of offences punishable under Section 379, 411 & 473 of Indian Penal Code, accused persons were charge sheeted to which they, pleaded not guilty and claimed trial. Consequently, the case was fixed for evidence of the prosecution.

5. Amandeep Singh as PW1 who, categorically deposed in his examination-in-chief that the theft of his motor-cycle was never occurred. His statement was never recorded by the police and he does not deposed regarding the identification of the accused.

6. The prosecution further got examined I.O. ASI Balbir Singh, as PW2, who categorically deposed in his examination in-chief that he had received a secret information that two persons had stolen the motorcycle from somewhere and they had fixed the forged and fabricated number plate bearing no.PB-11-BL-5286 and coming from the village

Ullana. After receiving information a naqa was conducted and after inquiring from them they disclosed their names as Bhupinder Singh and Vijay Kumar and they also admitted that they had stolen the motorcycle from the parking of Punjabi University about 3 months ago. Then, he wrote a ruqa Ex.P1 and sent it through PHG Sukhdev Singh to police station and on the basis of the same FIR was registered Ex.P2 and Endst. Ex.P3, he took into the possession of parcel and the motor-cycle vide memo Ex.P4, arrest memo Ex.P5, personal search memo Ex.P6, memo of intimation Ex.P7, site plan Ex.P8, application Ex.P9 and verification of number of motor-cycle PB-11-BR-3238 and PB-11-BL-5286 Ex.P10.

7. ASI Balbir Singh was examined as PW-3, who categorically deposed in his examination-in-chief, that on 18.04.2017, he along with police party including I.O. ASI Balbir Singh and PHG Sukhdev Singh were patrolling on the official vehicle. He narrated the entire incident as per the lines of I.O. in his examination-in-chief and identified his signatures on memos which were already mentioned in the statement of I.O. and also identified the accused person present in the court.

8. Harwinder Singh as PW-4, who categorically deposed in his examination-in-chief he brought the record of vehicle bearing No.PB11BR3238 in the name of Sachin Kumar son of Jai Kishan R/o Masingan which is Ex.PW4/A and Ex.PW4/G, on which he identified the signatures of Dharamjit Singh Clerk office of RTA, Patiala at Point A, Seen Endst. Ex.PW4/B. Also brought the record of vehicle bearing no.PB-BL-5286 in the name of Paramjit Singh son of Labh Singh R/o Village Sardarsi which is Ex.PW4/C, Endst. Seen which is Ex.PW4/D. Also brought the record of vehicle bearing no.PB-11-AW-5747 in the name of

Surinder Kumar R/o585/5, Guru Nanak Nagar, Patiala record is Ex.PW4/E. He also brought the record of vehicle bearing no.PB11-AW-5747 in the name of Merehwai Alemayehu R/o International Hospital, Punjabi University, Patiala and record is Ex.PW4/F.

9. HC Hardeep Singh as PW-5, who categorically deposed in his examination in chief that he has produced copy of FIR No.28 dated 20.02.2017 Police Station Urban Estate before the court as Ex.PW5/A and identified the signatures of ASI Harjit Singh on the same.

10. ASI Bhupinder Singh as PW-6, who deposed in his examination in chief that he along with HC Sukhwinder Singh and C Deepak Kumar regarding patrolling of Punjabi University, where, Amandeep Singh got recorded his statement Ex.PW6/A, Police proceedings Ex.PW6/A of ASI Bhupinder Singh. He further deposed that the theft of motor-cycle no.HR-01-AC-1322, PB11-AW-5747, PB-10-DG-3310 and PB-AR-4585 committed by some unknown person. Ruqa sent to police station and on the basis FIR Ex.PW5/A registered and Endst. Ex.PW6/C, application received which is Ex.PW6/D to Ex.PW6/I, Site plan Ex.PW6/J to Ex.PW6/L and Ex.PW6/J1. Photocopy of recovery taken in to possession which is Ex.PW6/M, attested copy of zimni dated 18.04.2017 Ex.PW6/N, Arrest cum-intimation memo Ex.PW6/O and personal search memo conducted vide memo Ex.PW6/P, memo attested by him and signed by accused. Accused produced before Illaqa Magistrate, where he sent to judicial custody on 14.07.2017. Arrest cum-intimation memo Ex.PW7/Q and personal search memo conducted vide memo Ex.PW6/R. Application moved by him for the verification of Rcs of motor-cycles which is Ex.PW6/S to Ex.PW6/U and also identified the

accused present in the court.

11. HC Mohan Singh, as PW7, his examination-in-chief was conducted by way of affidavit which is Ex.PW7/A. He categorically deposed that on 18.04.2017 ASI Balbir Singh handed over him property of the suit is motor-cycle, colour black with engine number 88706 chassis number 35196 and two fake number plates PB11BL5286 in a cloth bag, a key pulanda stamp letter BS and currency of Rs.110/- for entering Malkhana police station and he has made the entry regarding the same in Register No. 19.

12. ASI Devinder Singh as PW8, who categorically deposed in his examination-in-chief that accused Vijay Kumar alongwith his father came to police station along with bail order of Court. After interrogation accused was arrested and arrest cum intimation memo dated 14.09.2022 Ex.PW6/Q (already exhibited) and personal search memo ex.Ex.PW6/R.

13. Khushwant Sachdeva as PW-9, who categorically deposed in his examination-in-chief that on 18.02.2017 he went to Law Department in evening at about 5:00 pm on his motor-cycle PB-11-AR-4585 and parked it outside the law Department. After returning after 10 minutes his motor-cycle was not found to him and thereafter he moved an application which is already exhibited Ex.PW6/G to PS Urban Estate and also identified his signature at Point A.

14. Sachin Kumar as PW10, who categorically deposed in his examination in chief that his motor-cycle bearing no.PB-11-BR-3238 Splendor was tkaen by his brother Amandeep Singh at Punjabi University, Patiala which was stolen from Library Hall. After the theft of motor-cycle they he along with his brother went to Police Station, Ghanaur and

recorded their statements.

15. Upon the closure of prosecution evidence, all the incriminating circumstances were put to the accused and his statement under Section 313 Cr.P.C recorded wherein he denied the allegations levelled against him and pleaded his innocence. He further submitted that he has not committed any offence. Police has planted a false story against him to implicate him in the present case. No recovery has been effected from him. He has no concern whatsoever with the alleged occurrence. Accused opted not to lead evidence in defence.

16. I have heard Learned APP for the State and Learned Counsel for the accused and have gone through the record of the case.

17. In the present case, the accused has been charged U/s 411 and 473 of Indian Penal Code. The ingredients required to be proved U/s 411 IPC against the accused are as follows :-

- (a) The property in question is the stolen property
- (b) The property was found in possession of the accused.

18. In order to prove its case, prosecution relied upon the statement of Investigating Officer PW2 ASI Balbir Singh who categorically deposed in his examination-in-chief that two persons namely Bhupinder Singh and Vijay Kumar admitted that they had committed the theft of the motorcycle from the parking of Punjabi University about 3 months ago. Section 25 of the Evidence Act 1872 makes any confessional statement by the accused as inadmissible. Therefore, the confession made by the accused persons before PW1 ASI Balbir Singh is of no consequence.

19. Further PW1 Amandeep Singh who got registered an FIR

no.28 dated 20.02.2021 under section 379 IPC against the unidentified person for the theft of his motorcycle, turned hostile in his examination in chief and stated that theft of his motorcycle has never occurred. PW9 Khushwant Sachdeva categorically deposed in his examination-in-chief that his motorcycle bearing registration no.PB11AR4585 went missing from the parking of Law Department and he moved an application to PS Urban Estate which is already exhibited as Ex.PW6/G. PW10 Sachin Kumar has categorically deposed in his examination in chief that his motorcycle bearing no.PB-11-BR3238 Splendor was taken by his brother Amandeep Singh at Punjabi University. He further deposed that he did not recorded any FIR/Statement regarding alleged theft of his motorcycle. Thus the theft of motorcycle bearing registration no.PB-11-BR-3238 remains unproved on record as the complainant PW1 Amandeep Singh has turned hostile.

20. The prosecution has further alleged that the accused person was found in possession of motorcycle bearing forged registered number plate as PB11-BL5286. PW2 ASI Balbir Singh who is an Investigating Officer of the present case categorically deposed in his examination in chief that he took into possession motorcycle vide memo Ex.P4. He categorically deposed in his cross-examination that he do not know the engine number or the chassis number of the alleged vehicle which was recovered by them. Moreover, he has categorically admitted in his cross-examination that the place of recovery is a busy place, however no independent witness was joined as witness in the present case. As such, the recovery of the motor-cycle bearing forged registration number plate becomes doubtful.

21. Therefore, Prosecution has failed to prove that the accused persons were found in possession of stolen motor-cycle or the motor-cycle had the forged registration number plates beyond the shadow of reasonable doubts. The accused persons are acquitted of the offence U/s 379, 473 & 411 of Indian Penal Code. File be consigned to the Record Room, Rajpura, after due compliance.

Pronounced in open Court.
Dated: 28.03.2023

Shilpa Verma, Stenographer Gr.III

(Jaspreet Singh) PCS
Judicial Magistrate 1st Class,
Rajpura/UID No. PB0418
Directly dictated on computer.