

HRRE030003172018



Presented on : 09-01-2018
Registered on : 09-01-2018
Decided on : 29-07-2026
Duration : 8 years, 6 months, 20 days

**IN THE COURT OF
Judicial Magistrate - Ist Class at Rewari
(Presided Over by Sh. Vishwas Khatak)**

CHI/1478/2018

State **Versus**

1. Parveen Kumar son of Satbir Singh, R/o village Thothwal, PS Rampura, Rewari.
2. Shubram son of Chiranji Lal, R/o village Badhrana, PS Rampura, Rewari
3. Ram Mehar son of Karan Singh, R/o village Badhrana, PS Rampura, Rewari

FIR No. 124 dated 14.06.2017
Under Sections: 323, 379, 406, 506 IPC
Police Station : Rampura, Rewari

Present: Ms. Garima, Learned APP for the State.
Accused Parveen, Ram Mehar and Subhram appeared in person.

JUDGMENT:

The above named accused has been sent to face trial by S.H.O. Police Station, Rampura, Rewari, for alleged commission of offences punishable under Section 323, 379, 406, 506 of the Indian Penal Code, 1860 (hereinafter referred to as I.P.C.).

2. The case of the prosecution was launched on the complaint of one Shailesh son of Gurdev, R/o Faridabad M/D KDS build con who averred therein that his company namely KDS Buildcon, Faridabad had taken a contract from the Railway department for construction of staff quarters in village Thothwal. For this purpose, the complainant had placed 33,000 bricks near the construction place. Due to some reason, the construction work was stopped at the site and labour also

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went to their respective homes. It has been further averred by the complainant that he along-with Sandeep son of Chetram reached at the spot on 13.05.2017 at about 06:40PM and there he saw that three persons were loading the aforesaid bricks in their tractor. The complainant clicked photographs while they were loading the bricks. It has been further averred that he stopped these three persons to not to load the bricks in their tractor to which they replied that they are doing this work on the instruction of Parveen son of Satbir, R/o village Thothwal. These persons had committed theft of 25000 bricks. One accused told his name of Sukhram R/o Badhrana and the second person was son of Sukhram and third person did not revealed his name. Thereafter, the accused persons had scuffle with the complainant and pushed the complainant, threatened to kill the complainant and also stated that he should keep his mouth shut and if he will try to give the complaint to police then they will throw out the labour and complainant. On the basis of these averments, complainant prayed that necessary action may kindly be taken against the above said accused person.

3. On the basis of this complaint, formal FIR was registered. Investigation was commenced. Above named accused was arrested. Statements of witnesses under Section 161 of Code of Criminal Procedure, 1973 (hereinafter referred to as Cr.P.C.) were recorded and after completion of all other formalities of investigation, challan under Section 173 Cr.P.C, was filed against the above named accused person.

4. Thereafter, upon his appearance the accused was supplied with the copies of the challan and other documents appended therewith free of costs as envisaged under section 207 of Cr.P.C.

5. Thereafter, on the basis of report under Section 173 Cr.P.C. and other accompanying documents, charge under Sections 323, 379, 406, 506 read with Section 34 of IPC, was framed against the above named accused by the then learned Judicial Magistrate First Class, Rewari vide order dated 08.02.2018 to which, accused had pleaded not guilty and had claimed trial.

6. Thereafter, in order to prove its case beyond all reasonable doubt, prosecution got examined as many as five witnesses. Prosecution first of all got examined prosecution got examined ASI Pardeep Kumar no.703/RWR as PW-1 who is merely a formal witness in nature. Thereafter, prosecution got examined its star witness namely Shailesh i.e. complainant as PW-2. Thereafter, prosecution got examined Sandeep as PW-3, who is other material witness in the present case. Thereafter, prosecution got examined Retired Inspector/SHO Dharambir as PW-4, who is merely a formal witness in nature. In the end, prosecution got examined ASI Ajit Singh as PW-5, who is the investigating officer in the present case. This was the entire evidence led by the prosecution in the present case.

7. Thereafter, statement of accused under Section 313 Cr.P.C., was recorded wherein, accused denied all the incriminating evidence brought on record against him by the prosecution and pleaded false implication. Thereafter, accused was called upon to enter on his defence and to lead evidence in support thereof. However despite availing opportunity the accused failed to produce on record any evidence in his defence and thereafter, accused vide his separate statement of even date, closed the defence evidence.

8. I have heard Ms. Garima, learned APP for the State and on the other hand, accused appeared before court and have gone through the case file very carefully.

9. It is a well settled principle of criminal jurisprudence that prosecution is under a bounden duty to prove its case beyond all reasonable doubt against the above named accused person. The prosecution in order to discharge the said burden in the present case examined as many as five witnesses. The prosecution first of all got examined prosecution got examined ASI Pardeep as PW-1, who in his examination-in-chief proved arrest memo of Parveen Kumar Ex.PW1/A, arrest memo of Shubram Ex.PW1/B, arrest memo of Ram Mehar Ex.PW1/C, personal search memo of Parveen Ex.PW1/D, personal search memo of Shubram Ex.PW1/E, personal search memo of Ram Mehar Ex.PW1/F, disclosure statement of accused Parveen Ex.PW1/G, disclosure statement of accused Shubram Ex.PW1/H, disclosure statement of accused Ram Mehar Ex.PW1/I, demarcation of place of occurrence by Parveen Ex.PW1/J, demarcation of place of occurrence by Shubram Ex.PW1/K, demarcation of place of occurrence by Ram Mehar Ex.PW1/L. Thereafter the said PW1 was cross examined by learned counsel for accused, during cross-examination he has categorically deposed that Ex.PW1/A to Ex.PW1/I does not carry the signature of any public witness.

10. Thereafter, the prosecution got examined star witness/complainant namely Shailesh as PW-2 who in his examination-in-chief reiterated the contents of the complaint in its letter and spirit, as have already been discussed in detail in paragraph No. 2 of this judgment and are, therefore, not repeated here for the sake of brevity. Thereafter the said PW2 was cross examined at length by learned counsel for accused, during cross-examination he has categorically deposed that he do not know as to why and from whom the bricks were purchased. No recovery was effected in the present case. Further deposed that he did not produce under Section 65(B) certificate pertaining photographs Ex.P1 to Ex.P5. He further

deposed that he do not know accused persons present before the court. Thereafter he deposed that he had purchased bricks from DBC brick Kiln.

11. Thereafter, the prosecution got examined witness namely Sandeep as PW-3, who in his examination-in-chief reiterated the contents of the complaint in its letter and spirit, as have already been discussed in detail in paragraph No. 2 of this judgment and are, therefore, not repeated here for the sake of brevity. Thereafter the said PW3 was cross examined at length by learned counsel for accused, during cross-examination he has categorically deposed that bricks were purchased by complainant Shailesh and it was purchased from Narender Brick kiln. Thereafter he further deposed that no independent witness was made in the present case.

12. Thereafter, the prosecution got examined witness namely Retired Inspector/SHO Dharambir as PW-4, who in his examination-in-chief proved tehrir Ex.PW4/A, formal FIR Ex.PW4/B which was recorded vide endorsement as Ex.PW4/C,

13. In the end, prosecution got examined ASI Ajit Singh as PW-5, who is the investigating officer in the present case, who in his examination-in-chief proved site plan Ex.PW5/A. Beside doing so, he deposed that during the investigation accused Parveen, Ram Mehar and Subhram were enlarged on anticipatory bail and thereafter on 07.12.2017, the accused were joined in investigation and arrest form of accused persons were prepared and disclosure statement of accused persons were prepared. Personal search memo of accused persons were prepared. Thereafter, the challan was forwarded to court. The challan bears signature of SHO Ramniwas. Thereafter the said PW5 was cross examined at length by learned counsel for accused, during cross-examination he has

categorically deposed that no recovery was effected in the present case. He further deposed that the complaint was given to him after one month of incident. This was the entire evidence led by the prosecution.

14. Hence, after the careful scrutiny of the oral as well as documentary evidence brought on record by the prosecution in the present case, only one conclusion can be arrived at and that is that, the prosecution has miserably failed to prove the case because above named accused person beyond all shadow of reasonable doubt. In this regard, it is pertinent here to mention that no recovery of articles of theft is not fatal to the prosecution case. Here it is pertinent to mention that the prosecution has required to prove the bricks were taken by accused belongs to complainant. No bill or receipt pertaining to bricks were brought on record to establish that the bricks belongs to the company of the complainant. Furthermore, PW2 Shailesh during his cross-examination has categorically deposed that bricks were of DBC company and PW3 Sandeep had deposed that bricks were of Narender Brick company. It is not clear from which brick kiln the bricks were purchased by complainant.

15. Not only this, it is also pertinent to mention that at the time of arrest of accused, no independent witness was joined in the present case. PW1 ASI Pardeep during his cross-examination categorically deposed that no independent witness was joined in the present case and PW2 also deposed that no independent witness was joined in the present case. This was also a corroborative piece of evidence which would have helped the prosecution.

16. Not only this, it is also pertinent to mention that the complaint was moved after one month of incident and FIR was lodged i.e. on 14.06.2017. Further the date of incident is 13.05.2017. Here it is pertinent to mention that it is settled law

that delay in registration of FIR is not fatal in the prosecution case if the reasons for delay is satisfactorily explained. In the present case, the reason for delay in registration of FIR has not been explained properly and satisfactorily by the prosecution thus false implication of prosecution can not be ruled out. Hence, it is amply clear that neither identity of the accused is established nor the identity of the bricks established by the prosecution.

17. Hence, in consonance with the foregoing discussion, it can be seen that prosecution has miserably failed to discharge the burden of proving its case beyond all reasonable doubt against the above named accused person and as a consequence of the same, accused **Parveen, Ram Mehar and Subhram** are hereby acquitted of the charges framed against them. Case property, if any, be dealt with, in accordance with law. Bail bonds and surety bonds furnished stand extended for a further period of six months, and in case no appeal is preferred after lapse of six months, same stand discharged. File be consigned to record room after due compliance.

Announced in open Court.
29.07.2026

(Vishwas Khatak)
Judicial Magistrate First Class
Rewari, UID No. HR0663

Note: All pages of this judgment have been duly dictated, checked and signed by me.

Preeti

(Vishwas Khatak)
Judicial Magistrate First Class
Rewari, UID No. HR0663

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Present: Ms. Garima, Learned APP for the State.
Accused Parveen, Ram Mehar and Subhram appeared in person.

No defence witness is present. The accused did not opt to lead any evidence in defence, and it was closed by accused vide his separate recorded statement of even date. Final arguments have been heard. Order announced. Vide my separate judgment of even date, **Parveen, Ram Mehar and Subhram** are hereby acquitted of the charges framed against them. Case property, if any, be dealt with, in accordance with law. Bail bonds and surety bonds furnished stand extended for a further period of six months, and in case no appeal is preferred after lapse of six months, same stand discharged. File be consigned to record room after due compliance.

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