

**IN THE COURT OF MS. PRATIMA ARORA, PCS,
SUB-DIVISIONAL JUDICIAL MAGISTRATE, SAMRALA.**
(UNIQUE IDENTIFICATION NO. PB 0280)

FIR No.129 dated:01.06.2014
U/S: 379, 411 of IPC & 21 of Mines
and Minerals Development and
Regulation Act,
Police Station Samrala

Police Challan No.47/1
Date of Institution:24.04.2015
Date of Decision: **11.12.2018**
CHI/77/2015

State	Versus	1	Mojudin son of Surid Ali resident of Rattan Heri, P.S. Sadar Khanna, District Ludhiana.
		2	Surajdin son of Babudin resident of Uppal Sanghe, P.S. Koom Kalan, District Ludhiana.

.....Accused

Present: Sh. Harjinder Singh, APP for the State
Accused Mojudin and Surajdin on bail with counsel Sh. K.S.
Diwa, Advocate.

JUDGMENT

Accused Mojudin and Surajdin have been sent by the SHO, PS Samrala, to face trial for committing an offence punishable under Sections 379, 411 of Indian Penal Code (hereinafter referred to as **I.P.C.**) and Section 21 of Mines & Minerals Development and Regulation Act, 1957 (hereinafter referred to as Mines Act).

2. The brief facts of the prosecution story are that on 01.06.2014, accused were found in possession of tractor Swaraj blue colour, without any number, along with trolley, loaded with sand which

they knew and had reason to believe the same to be stolen property belonging to the Government of Punjab and contravened Section 4 of Mines and Minerals Development and Regulation Act, 1957. Accused were apprehended. Rough site plan was prepared. Statements of witnesses were recorded. On completion of the necessary investigation, both the accused were challaned to face trial in the Court.

3. On presentation of challan in the Court, the copies of the documents as envisaged under Section 207 Cr.P.C. were supplied to the accused free of costs.

4. Finding a prima facie case against the accused, they were charge sheeted under Sections 349, 411 of IPC and 21 of Mines Act to which they pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution has examined only one witness namely Rajvir Singh, Senior Industry Promotion Officer in the Mining Department as PW1 who has deposed, on oath, that on 20.09.2014, he was posted at Senior Industry Promotion Officer in the Mining Department. On that day, Investigating Officer ASI Prem Singh called him at P.S. Samrala and he went there and he checked the sand which was illegally mined and stolen from Satluj River without permission of mining Department which was loaded on two tractor-trolleys make Swaraj. He gave test report Ex.P1 which bears his signatures and he identifies the same. He also produced the letter mark A. His statement was recorded. His examination-in-chief was deferred but thereafter he did not appear for his examination-in-chief or his cross-examination.

6. Thereafter, evidence of the prosecution was closed by order of the Court since the prosecution had availed eight effective opportunities to lead evidence but failed to conclude it's evidence.

7. Since there was no incriminating evidence against the accused on the file, statements of both the accused under Section 313 Cr.P.C were dispensed with.

8. In defence, accused Mojudin and Surajdin did not lead any evidence and closed their evidence vide their separately recorded statements dated 11.12.2018.

9. Learned defence counsel has argued that both the accused are innocent persons, they have been falsely implicated in the present case, the case of the prosecution is not proved and as such, the accused be acquitted.

10. I have carefully considered the submissions made by learned APP for the state, learned Defence counsel and have gone through the file with their able assistance and I am of the considered opinion that the prosecution has failed to prove it's case against any of the accused. The prosecution has examined only one witness namely Rajvir Singh, Senior Industry Promotion Officer in the Mining Department, who has stated that that on 20.09.2014, he was posted at Senior Industry Promotion Officer in the Mining Department. On that day, Investigating Officer ASI Prem Singh called him at P.S. Samrala and he went there and he checked the sand which was illegally mined and stolen from Satluj River without permission of mining Department which was loaded on two tractor-trollies make Swaraj. He gave test report Ex.P1 which bears his signatures

and he identifies the same. He also produced the letter mark A. His statement was recorded. His further examination-in-chief was deferred. Thereafter, he did not appear for his further examination-in-chief or cross-examination and as such his statement has not been completed. It is a well settled law that an incomplete statement of a witness cannot be read into evidence and as such the testimony of PW-1 can't be read into evidence. No other witness of the prosecution has been examined. There is no incriminating evidence against any of the two accused on the file and as such, accused Mojudin and Surajdin are entitled to acquittal.

11. In view of my discussion above, accused Mojudin and Surajdin are acquitted of the charge framed against them under Sections 379, 411 of IPC and 21 of Mines and Minerals Development and Regulation Act. Bail bonds and surety bonds of both the accused would be discharged after the expiry of period of six months as per provisions of Section 437-A of Cr.P.C. Case property be disposed off as per rules after the expiry of period of appeal or revision, if any. File be consigned to the Record Room after due compilation.

**Pronounced in open Court on
11th day of December, 2018**

(Pooja Rani, Steno-III)

**(Pratima Arora) PCS
Sub Divisional Judicial Magistrate
Samrala. (UID No. PB 0280)**