

State of Haryana Vs. Sunil & Others

**IN THE COURT OF MS SUMAN
JUDICIAL MAGISTRATE 1st CLASS BAHADURGARH
UID No. HR 0680**

HRJRA10055152017



Criminal Case RBT No. : 31/2017/2026

CIS No. : CHI-661-2017

Date of Institution : 13-10-2017/01-05-2026

Date of Decision : 14-07-2026

- State of Haryana Vs.
1. Sunil son of Ram Kishan, resident of Village Kulasi, District Jhajjar.
 2. Ankit son of Rajpal, resident of Village Kulasi, District Jhajjar.
(Undergone VOD 06.11.2025)
 3. Rishipal son of Jagdish, resident of village Kulasi, District Jhajjar.
 4. Mohit son of Jai Parkash, resident of Village Kulasi, District Jhajjar.
 5. Naveen son of Rohtash, resident of Village Kulasi, District Jhajjar.

..... Accused Persons.

FIR No. 10 dated 08-01-2017

U/s: 379, 411 & 201 of IPC.

PS: City, Bahadurgarh.

Present: Ms. Pooja, APP for the State.
Accused Naveen on bail represented by Sh. Sunil Balyan, Advocate.
Accused Rishipal on bail represented by Sh. Sunil Balyan, Advocate.
Accused Sunil on bail represented by Sh. Sunil Balyan, Advocate.
Accused Mohit on bail but in custody some other case represented by Sh. Sunil Balyan, Advocate.
Accused Ankit undergone vide order dated 06.11.2025.

JUDGMENT:-

The above named accused persons have been sent up by SHO, PS City, Bahadurgarh to face trial for the commission of offence punishable under Sections 379, 411 & 201 of Indian Penal Code (hereinafter referred as “IPC”).

FACTS

2. The present case was registered on the basis of a complaint submitted by the complainant, Jagdish, son of Man Singh, resident of House No. 1524, Sector-6, Bahadurgarh, regarding the theft of his motorcycle. The complainant stated that he owned a TVS Apache RTR 160 motorcycle bearing registration No. HR-13K-4371, Chassis No. MD634KE45F2L28562, and Engine No. OE4LF2864276. On the night of 04.01.2017, at about 10:00 PM, he visited his uncle's house at 1364, 2nd Floor, Sector-7, Bahadurgarh, where he parked his motorcycle in the open space below the house. On the morning of 05.01.2017, he found that his motorcycle had been stolen. Despite making inquiries from the nearby residents and searching for the vehicle on his own, he could not trace it.

Accordingly, he requested the police to recover the stolen motorcycle and take legal action against the culprits. On the basis of the complaint, the present FIR was registered, and the investigation was entrusted to HC Sandeep Kumar. During the course of investigation, the place of occurrence was inspected, a site plan was prepared, and efforts were made to trace the stolen motorcycle and identify the offenders. During investigation, it came to light through FIR No. 468 dated 12.08.2017, registered under Sections 379/411/483 IPC at Police Station City Bahadurgarh, that the accused Ankit, Rishipal and Sunil were involved in the theft of the motorcycle. They were formally arrested in the present case on 14.08.2017 after obtaining the necessary permission from the Court and were taken into police custody for further investigation. During police remand, accused Ankit and Rishipal pointed out the place of occurrence. At the instance of accused Sunil, the engine of the stolen motorcycle was recovered. Accused Ankit also got ₹600/- recovered from his possession. During interrogation, accused Rishipal disclosed that he had burnt the documents of the stolen motorcycle. Consequently, Sections 411 and 201 IPC were added in the present case. Upon completion of the investigation, sufficient evidence was found against accused Ankit, Sunil and Rishipal for offences punishable under Sections 379, 411 and 201 IPC. Accordingly, the police report (challan) was prepared and presented before the Court. After arresting the accused persons namely Mohit & Naveen, supplementary challan of accused Mohit & Naveen was filed on 09.08.2019.

SUPPLY OF COPY OF CHARGE-SHEET

3. On appearance of above said accused in the Court, copy of charge-sheet alongwith the accompanied documents were supplied to him free of cost as contemplated under Section 207 Cr.PC.

CHARGE

4. After hearing of learned APP for State as well as learned defence Counsel and on an appraisal of entire documents accompanied with the challan, a prima-facie case for the commission of offence punishable under Sections 379, 411 & 201 of IPC were found to be made out against accused persons namely Sunil, Ankit & Rishipal. Accordingly, they have been charge sheeted vide order dated 21.04.2018 and Section 379, 411 & 201 were found to be made out against accused Mohit and Naveen and they have been charged sheeted vide order dated 03.10.2019. Contents of charges were read over and explained to the accused in simple Hindi, to which; they pleaded not guilty and claimed trial. Therefore, the prosecution was allowed to lead evidence in order to prove factum of charge.

PROSECUTION EVIDENCE

5. In order to prove its case, the prosecution has examined as many as ten witnesses i.e. EHC Jogender as PW1, Jagdish (Complainant) as PW2, SI Dharambir as PW3, SI Teluram as PW4, HC Sandeep as PW5, HC Krishan Kumar as PW6, HC Harish as PW7, HC Ajit as PW8, SI Zile Singh as PW9 & HC Ravinderpal as PW10. A brief resume of their testimonies are as under:-

(i) **PW1 EHC Jogender** stepped into the witness box and deposed that on 13.08.2017, he was posted at P.S. Sector-6, Bahadurgarh. On that day, he was involved in investigation in FIR No. 468/2017 P.S. City Bahadurgarh alongwith HC Zile Singh. Accused persons namely Sunil, Rishipal and Ankit were joined into investigation in his presence. Disclosure statement of accused persons Ex. PW1/A, PW1/B & PW1/C were recorded in his presence, which bears his signatures being an attesting witness. On the very next day, HC Zile Singh were the accused persons into investigation in the present case and recorded disclosure statement of accused persons Ex. PW1/B, PW1/D & PW1/F, which bears his signatures as well as witness HC Vijay Parkash. He further proved supplementary disclosure statement Ex. PW1/G, PW1/H & PW1/I in his presence. He further deposed that Rs. 600/- was recovered from the accused Ankit, which were taken into police possession vide recovery memo Ex. PW1/J, and engine of the stolen vehicle was recovered from the house of accused Sunil, which was taken into police possession vide recovery memo Ex. PW1/K. He further proved site map of place of occurrence Ex. PW1/K, which bears his signatures. However, in cross-examination, he admitted that no independent person was joined while making site plan. He further admitted that no independent person was joined while recording disclosure statement of above named accused. It is wrong that he was not involved into investigation.

(ii) **PW2 Jagdish (Complainant)** stepped into the witness box and

deposed that he owned a motorcycle bearing registration No. HR-13K-4371. On 04.01.2017, he had gone at 1364, Sector-7, Bahadurgarh, where he parked his motorcycle in the open space below the house. On the morning, he found that his motorcycle had been stolen and he has moved his complaint Ex. PW2/A, which bears his signatures. During his cross examination, he deposed that he does not know who stolen his motor-cycle. His motorcycle has not been recovered and he does not know the accused persons.

(iii) **PW3 SI Dharambir** stepped into the witness box and deposed that on 08-01-2017, he was posted at P.S. City, Bahadurgarh as Duty Officer. He further deposed that on the basis of tehrir, he registered FIR and made endorsement over the same Ex. PW3/A which bears his signatures.

(vi) **PW4 SI Teluram** stepped into the witness box and deposed that on 13.10.2017, he has prepared final report under Section 173 Cr.P.C., which bears his signatures.

(v) **PW5 ASI Sandeep** stepped into the witness box and deposed that on 08.01.2017, he was posted at Police Post Sector-6, Bahadurgarh as investigating officer. On that day, he was present at Sector-2 alongwith Constable Amit. Complaint Jagdish son of Man Singh has moved his complaint Ex. PW2/A, upon which police proceedings Ex. PW5/A has been made and sent through Constable Amit for registration of FIR. He prepared

site map of place of occurrence Ex. PW5/B. During his cross examination, he deposed that it is wrong that he prepared the site map in the police station. He further deposed that it is incorrect that he never visited the place of occurrence or that he conducted the entire investigation while sitting at the police station in collusion with the complainant and other police officials. It further denied that any action was taken against the accused with the intention of falsely implicating them or merely to achieve any target.

(vi) **PW6 ASI Krishan Kumar** stepped into the witness box and deposed that on 04.06.2018, he was posted at P.S. Sector-6 as investigating officer. On that day, he has received FIR No. 10/2017, P.S.City Bahadurgarh for conducting further investigation. During investigation, accused Naveen was arrested. He further deposed that disclosure statement of accused Naveen Ex. PW6/A has been recorded and site plan Ex. PW6/B was prepared. On 24.06.2018, accused Mohit was joined into the investigation in FIR NO. 468/2017, P.S. City Bahadrugarh and during investigation, accused Mohit was arrested and his disclosure statement Ex. PW6/C has been recorded and site plan Ex. PW6/D was prepared. Statement of witnesses have been recorded. After completion of investigation, final report under Section 173 Cr.P.C. was prepared and presented before the Court. Accused Mohit and Naveen are present in the Court. During his cross examination, he deposed that the place of occurrence is police place. It further denied that any action was taken against the accused with the

intention of falsely implicating them or merely to achieve any target.

(vii) **PW7 HC Harish** stepped into the witness box and deposed that on 24.06.2018, he was posted at Police Post, Sector-6, Bahadurgarh. On that day, he was involved in the investigation alongwith the investigating officer HC Krishan. He further deposed that disclosure statement of accused Mohit Ex. PW6/C has been recorded and site map of place of occurrence Ex. PW6/D was prepared in his presence, which bears his signatures being an attesting witness. During his cross examination, he deposed that he has seen the site map of place of occurrence Ex. PW5/B, which reveals that there is no mention, description or identification of House No. 1364 anywhere in the site plan.

(viii) **PW8 EHC Ajit** stepped into the witness box and deposed that on 13.08.2017, he was posted at Police Post Sector-6, Bahadurgarh. He was involved in the investigation alongwith investigating officer Zile Singh in FIR No. 468/2017 under Section 379, 411 & 483 of IPC, P.S. City Bahadurgarh. On that day, disclosure statement of accused Ankit Ex. PW1/C has been recorded, which bears his signatures being an attesting witness.

(ix) **PW9 SI Zile Singh** stepped into the witness box and deposed that on 12.08.2017, he was posted as investigating officer at Police Post Sector-6, Bahadurgarh. He was the investigating officer in FIR No.

468/2017, P.S. City Bahadurgarh. On 13.08.2017, accused persons namely Sunil, Rishipal & Ankit have been arrested in FIR No. 468/2017 and disclosure statement of accused persons namely Suni, Rishipal and Ankit have been recorded Ex. PW1/A, PW/B & PW/C respectively. On 14.08.2017, the investigation was conducted by him in the present case and during investigation, accused Sunil, Rishipal & Ankit were arrested in the present case. He further deposed that disclosure statement of accused Sunil, Rishipal and Ankit have been recorded Ex. PW1/D, PW1/E & PW1/F respectively. Thereafter, supplementary disclosure statement of accused Rishipal, Sunil and Ankit have been recorded Ex. PW1/G, PW1/H & PW1/I respectively. Site map of place of occurrence Ex. PW1/L & PW1/M have been prepared. On that day, Rs. 600/- was recovered from the accused Ankit and taken into the police possession vide recovery memo Ex. PW1/J and recovery memo Ex. PW9/A was prepared. Engine of the stolen vehicle was recovered from the accused Sunil and taken into the police possession vide recovery memo Ex. PW1/K and site map Ex. PW9/B was prepared. Section 411 & 201 was added in the present case. He further deposed that case property engine of motorcyle Ex. MO1 and currency notes of Rs. 600/- are present in the Court. He further admitted that several public person of locality used to visit at the place of occurrence. That investigating officer has not joined any public witness of the locality during investigation. He deposed that he has seen the site map of place of occurrence Ex. PW5/B, which reveals that there is no mention, description or identification of House No. 1364 anywhere in the site plan. That investigating officer has not

joined any public witness during recovery of engine of stolen vehicle as well as no photograph has been taken during the recovery. It further denied that any action was taken against the accused with the intention of falsely implicating them or merely to achieve any target.

(x) **PW10 HC Ravinderpal** stepped into the witness box and deposed that on 04.06.2018, he was posted as investigating officer at Police Post, Sector-6, Bahadurgarh. He was involved into investigation alongwith investigating officer. On that day, disclosure statement of accused Naveen Ex. PW6/A has been recorded and site map of place of occurrence Ex. PW6/B has been prepared in his presence, which bears his signatures being an attesting witness. That investigating officer has not joined any public witness of the locality during investigation.

STATEMENT OF ACCUSED UNDER SECTION 313 Cr.P.C

6. Statement of the accused persons under Section 313 of Cr.P.C was recorded, wherein all the evidence led by the prosecution put to them but the same was denied by them. They pleaded their innocence and false implication in the present case. They chose not to lead evidence in their defence.

ARGUMENTS

7. I have heard the learned APP for the State assisted by counsel for complainant as well as learned defence counsel and have also gone through the file very carefully and minutely.

ARGUMENTS FROM SIDE OF PROSECUTION

8. The learned APP for the State has argued that by examining as many as four witnesses, the prosecution has fully proved its case against accused beyond reasonable doubts. Therefore, the accused may kindly be convicted and punished severely in accordance with law.

ARGUMENTS FROM SIDE OF DEFENCE.

9. On the other hand, learned counsel for the accused while controverting the submissions of Learned APP, has submitted that the prosecution has failed to prove its case beyond shadow of reasonable doubt. In this regard, Ld. defence counsel submitted that **firstly** the instant case has been fabricated upon the accused. **Secondly**, no independent witness has been joined by the prosecution. Hence recovery is doubtful in the present case. **Thirdly**, there are so many material contradictions in the statements of witnesses examined by the prosecution. **Lastly**, it is argued that the prosecution has failed to prove the guilt of the accused, so the accused is entitled for acquittal.

FINDINGS

10. The burden lies upon the prosecution to prove its case against the accused beyond all reasonable doubt. The accused are presumed to be innocent unless the prosecution succeeds in establishing their guilt through reliable, cogent and convincing evidence. In the present case, the prosecution has examined ten witnesses. PW2 Jagdish, the complainant, has only proved the factum of theft of his motorcycle. During his cross-

examination, he categorically admitted that he does not know who had stolen his motorcycle, that the motorcycle was never recovered, and that he does not know any of the accused persons. Thus, his testimony does not connect any of the accused with the commission of the alleged offence. Meaning thereby, identity of accused in the alleged incidence is not proved beyond reasonable doubt. Chain of circumstances is not complete. Meaning thereby, connecting link to connect the accused with the alleged incidence is missing.

The prosecution has mainly relied upon the disclosure statements of the accused persons and the alleged recovery of the engine of the stolen motorcycle from accused Sunil and ₹600/- from accused Ankit. However, it is well settled that a disclosure statement made to the police is inadmissible in evidence except to the limited extent permitted under Section 27 of the Indian Evidence Act. Mere disclosure statements, in the absence of independent corroboration, cannot form the sole basis of conviction. The alleged recovery proceedings also suffer from serious infirmities. Admittedly, no independent public witness was associated either at the time of recording the disclosure statements or at the time of the alleged recoveries, despite the admitted availability of public persons at the relevant places.

PW9, the Investigating Officer, candidly admitted in his cross-examination that no public witness was joined during the recovery of the engine and that no photographs of the recovery were taken. Such omissions cast a serious doubt on the fairness and authenticity of the alleged recovery

proceedings.

Further, PW7 and PW9 admitted that the site plan (Ex. PW5/B) does not contain any mention, description or identification of House No. 1364, which, according to the prosecution case, was the place from where the motorcycle was stolen. This material omission creates a serious doubt regarding the correctness of the investigation and the prosecution version.

Further, on perusal of disclosure statement of accused Sunil Ex. PW1/D, Rishipal Ex. PW1/E, Ankit Ex. PW1/F and supplementary disclosure statement of accused Rishipal Ex. PW1/G, Sunil Ex. PW1/H, and Ankit Ex. PW1/I, disclosure statement of accused Naveen Ex. PW6/A & disclosure statement of accused Mohit Ex. PW6/C have been duly proved by the prosecution but the same cannot be relied upon as hit by section 25 and 26 of Indian Evidence Act, 1872. Merely on the basis of above said disclosure statement made by accused, it cannot be concluded that accused has committed the alleged offence as neither the case property has been produced during the trial of the case nor the case property was recovered in pursuance of said disclosure statement. Moreover, while making recovery of alleged case property, no independent person was made as a witness despite availability which also create doubt on the prosecution story. So the accused persons are entitled to benefit of doubt. Here reliance is also placed on case law authority titled as **Dharambir @ Dharam Vs. State of Haryana 2004(2) RCR (Criminal) 777 (P&H)**. Further, this fact is admitted by PW1, PW9 & PW10, who were involved in the investigation of the present case.

Moreover, alleged offence has been committed on 04.01.2017

but complaint in this regard has been moved on 08.01.2017. Meaning thereby, there is delay of approximately four days regarding submission of complaint before the police and the above said delay has not been explained by the prosecution. This fact also creates doubt in the prosecution story. Moreover, it is not proved on record that accused stolen the motorcycle on said date. No eye witness has been examined in this regard and no public witness was joined in investigation of the present case whereas the place of occurrence was a busy place. Meaning thereby, necessary ingredients of Section 379 IPC are not proved on the case file.

Further, the principle of Criminal jurisprudence is very much clear that the prosecution side is expected to prove its case beyond shadow of reasonable doubt and not by mere preponderance of probabilities which also has not been done in the present case. The golden thread which runs through the web of Administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favorable to be accused should be adopted. Conviction cannot be based on mere suspicion or on the conscience of the court being satisfied about the complicity of an accused person. He can be convicted and sentenced only if the prosecution proves its case beyond all doubt by legal evidence. The Hon'ble Supreme Court has time and again held that between 'May be true' and 'Must be true' there is a long distance to travel, which must be covered by clear cogent, and un-impeachable evidence by the prosecution before an accused is condemned as a convict. Reliance in this regard has been placed

on the judgment passed by Hon'ble Punjab and Haryana Court in case titled as **Didar Singh versus The State of Punjab CCJ 1991 page 52**, wherein it has been held that where two inferences are possible, then the inference which favors the accused should be accepted. In this case reliance has further been placed the judgment passed by Hon'ble Supreme court of India in **Ram Dass versus State of Maharashtra, AIR 1997 SC 1164**, wherein, it has been held that "where circumstances are susceptible of two equally possible inferences, the Court should accept that inferences which favors the accused rather than an inference which goes in favor of the prosecution".

Further, in this case, no independent/public witness has been examined, non-examination of any public person despite availability casts serious doubt on the prosecution case. At this stage, the law laid down by **Hon'ble High Court in case Sewa Singh Versus State of Haryana 2008 (2) RCR (Criminal) 520** comes into play, wherein it has been held by our own Hon'ble High Court that "It is, no doubt, true that evidence the of the official witnesses, cannot be distrusted and discarded, merely, on account of non- joining and non-examination of an independent witness. However, when an independent witness was available, at the time of search and seizure, but despite that he was not joined, by the Investigating Officer, the case of the prosecution becomes highly doubtful. The explanation furnished by the Investigating Officer, that an attempt was made, to join an independent witness, has been found to be not correct. Had an independent witness been joined, his evidence would have certainly lent credence to the

case of the prosecution, which is based on the evidence of the official witnesses only. A cloud of doubt was cast, on the case of the prosecution, on account of non- joining of an independent witness, despite availability. The trial Court, however, failed to take into consideration, this important fact, as a result whereof, miscarriage of justice occasioned.”

It is settled proposition of law that prosecution has to prove its case beyond reasonable shadow of doubt. In **Narender Singh and Anr. Vs. State of M.P. 2004 (3) RCR Criminal 613** the Hon'ble Supreme court of India held that "prosecution of innocence is a human right and burden of proof remains on the prosecution". Similarly, in **Sachan Pal Vs. Phani Pal and Anr report in 2004 (1) RCR Criminal 211**, the Hon'ble Supreme court of India held that "prosecution can succeed by substantially proving the version of it alleges. It must stand on its own legs and cannot take advantage of the weaknesses in defence cases". In this case, Hon'ble Supreme Court also held that "if two views are possible on the evidence adduced in the case, one pointing to the guilty of the accused and the other to his innocence, the view which is favourable to the accused should be adopted". In view of aforesaid, it can be concluded that prosecution miserably failed to prove its case against the accused.

In a criminal case mere suspicion, however, strong cannot take the place of proof. Between "may be true" and "must be true" there is inevitability a long distance to travel and whole of this distance must be covered by the prosecution by legal, reliable and unimpeachable evidence before an accused can be convicted. The prosecution has not covered the

same in the present case.

11. In view of the foregoing discussion, this Court is of the considered opinion that the prosecution has failed to prove the charges against accused Sunil, Rishipal, Mohit and Naveen beyond reasonable doubt. Accordingly, all the accused are acquitted of the charges punishable under Sections 379, 411 and 201 of the Indian Penal Code, by extending to them the benefit of doubt. Accused Mohit be released from custody, if he not required in any other case. File be consigned to the record room after due compliance.

**Pronounced in open court
on this 14th day of July, 2026**

Ishwer steno

**(Suman),
Judicial Magistrate Ist Class,
Bahadurgarh (UID:HR0680)**

Certified that all the seventeen pages of this judgment have been checked and signed by the undersigned.

**(Suman),
Judicial Magistrate Ist Class,
Bahadurgarh (UID:HR0680)**

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