

PBGDA10011852018



Presented on : 20-04-2018
Registered on : 20-04-2018
Decided on : 21-11-2023
Duration : 5 years, 7 months, 1 days

IN THE COURT OF
Judicial Magistrate - Ist Class
AT Batala, Gurdaspur
(Presided Over by Ms. Prabhjot Kaur)

CHI/250/2018

State	Versus	Jasbir Singh @ Rubal son of Hardeep Singh r/o Marri Tanda, P.S. Ghuman. Accused
-------	--------	---

FIR No. 94 dated 07.07.2016,
Police Station : City, Batala.
Under Section : 379, 411 IPC.

Present: Sh. Tejinderpal, APP for the State.
Accused Jasbir Singh on bail with counsel
Sh. G.S. Randhawa, Advocate.

JUDGMENT

1. The above stated accused have been forwarded by the Officer-In-charge, Police Station City, Batala before this court to face trial for the commission of offences punishable under sections 379/411 of Indian Penal Code in case bearing F.I.R. No. 94 dated 07.07.2016, P.S. City, Batala.
2. The prosecution story, in brief, is that on 07.07.2016, ASI Baldev Singh alongwith other police officials were present at Chowk Sukha Singh, where IO/ASI Baldev Singh received a secret information to the

(Prabhjot Kaur), PCS,
JMIC, Batala, 21.11.2023

effect that accused Jasbir Singh @ Rubal, who is habitual in committing theft and today also he is coming on a stolen motor-cycle make Splendor bearing registration no. PB02-BY-9546 and he is coming towards Batala City for selling the motorcycle and during checking, he can be apprehended. On information being found reliable, ASI alongwith other police officials started checking the vehicles and after some time, one motor-cycle was seen coming from the side of Shastri Nagar and ASI signaled him to stop, who on seeing the police party, tried to turn back however, ASI Baldev Singh apprehended the accused with the help of other police officials. On inquiry, he disclosed his name as Jasbir Singh @ Rubal son of Hardeep Singh. On investigation, accused Jasbir Singh had failed to give any satisfactory reply about the ownership of said motor-cycle. The said motor-cycle was taken into police possession vide separate memo. Accused Jasbir Singh was arrested. Investigation was ensued. Statement of witnesses were recorded. After the completion of investigation and other formalities, challan against accused was presented in the court.

3. On appearance of the accused in the court, copies of all the documents sent along with the report and relied upon by prosecution, were supplied to him, free of costs, as per mandatory requirement of Section 207 Cr.P.C.

4. From the perusal of those documents and after hearing learned A.P.P. for the State and learned defence counsel, sufficient grounds were made out to initiate trial against accused for commission of offences punishable under Sections 379/411 of Indian Penal Code and charges were

framed accordingly, to which accused pleaded not guilty and claimed trial.

5. To substantiate its case, prosecution got examined following witnesses:-

PW1	SI Baldev Singh	Investigating officer to prove on record case property Ex.MOI, recovery memo Ex.P1, arrest memo Ex.P2, personal search memo Ex.P3.
PW2	PHC Inderjit Singh	--do--
PW3	Harwinder Singh, Clerk	Witness to prove on record report of motor-cycle bearing registration no. PB02-BY-9546 Ex.P1/PW3, certificate under Section 65B Evidence Act Ex.P2/PW3 and report of RTA Office, Amritsar Ex.P3/PW3.

Thereafter, prosecution had failed to conclude its entire evidence and remaining evidence of prosecution was **closed by order**.

6. Statement of accused Jasbir Singh was recorded in terms of section 313 Cr.P.C, so as to apprise him of the incriminating circumstances appearing against him in evidence led by prosecution, to which he pleaded innocence and claimed false implication.

7. Despite effective opportunity, the defence failed to lead any evidence and hence, the same was closed by order.

8. This court has heard the submissions made by Ld. APP for the State and Ld. Defence counsel and has gone through the prosecution evidence. From the entire case, the following points for determination emerge out:

1. Whether in the month of July, 2016 in the area of lawrence road, accused Jasbir Singh committed theft of motorcycle splendor bearing no.PB-02-BY-9546 belonging to Santosh Baba without his consent ?

2. Whether on 07.07.2016 on or before 02:30 PM in the area of Sukha Singh Chowk, abovenamed accused dishonestly retained motor-cycle bearing no.PB-02-BY-9546 belonging to Santosh Baba knowing the same to be stolen property?

3. Whether evidence led on record by prosecution is sufficient to hold the present accused guilty for commission of offence punishable u/s 379/411 IPC ?

POINTS NO.1 TO 3 FOR DETERMINATION :-

9. All these points for determination have been taken up together for the sake of brevity and to avoid repetition. Sh. Tejinderpal, Ld. APP for the State has argued that all the prosecution witnesses have deposed on the lines of prosecution story and proved on record documents i.e. case property **Ex.MOI**, recovery memo **Ex.P1**, arrest memo **Ex.P2**, personal search memo **Ex.P3**, report of motor-cycle bearing registration no. PB02-BY-9546 **Ex.P1/PW3**, certificate under Section 65B Evidence Act **Ex.P2/PW3** and report of RTA Office, Amritsar **Ex.P3/PW3**. Thus, placing reliance on the oral testimony of these witnesses and documentary evidence produced on record by prosecution, Ld. APP for the State has further contended that the case of prosecution has been established on record beyond the shadow of reasonable doubt, therefore, accused must be convicted and sentenced with the maximum punishment as provided under law.

10. On the other hand, Ld. Defence counsel has raised his counter arguments thereby stating that accused is an innocent person and he has been falsely implicated in this case as there is no evidence on record

suggesting that any such recovery has ever been effected from accused. It was also argued that there is no direct evidence on record proving that accused had retained any stolen property as no recovery was effected from him. Thus, in these circumstance, accused cannot be convicted and he surely deserves to be acquitted from the charges framed against him for want of proper, cogent and convincing prosecution evidence.

11. It is the version of prosecution that accused Jasbir Singh was habitual in committing theft and was found in possession of stolen motor-cycle splendor bearing registration no.PB-02-BY-9546 on 07.07.2016. In order to prove its case, prosecution got examined altogether three witnesses but prosecuting agency has failed to establish the guilt of the accused.

12. Prosecution got examined **PW-1 SI Baldev Singh, investigating officer**, who deposed regarding the sequence of investigation and proved on record documents such as case property **Ex.MO1**, recovery memo **Ex.P1**, arrest memo **Ex.P2**, personal search memo **Ex.P3**. During his cross examination, he submitted that he does not know if any FIR was recorded regarding theft of motorcycle alleged to be recovered from accused. He admitted that case property produced in the court does not bear name of any police station. He also submitted that engine number and chassi number of the motorcycle produced in the court is also not legible.

13. **PW2 PHC Inderjit Singh** has deposed to corroborate the version of IO and proved on record recovery memo **Ex.P1**, arrest memo **Ex.P2**, personal search memo **Ex.P3**. His cross-examination was not

conducted by the defence, hence, the same was treated as nil.

14. Thereafter, prosecution got examined PW3 Harwinder Singh, Clerk, RTA Office, Amritsar who proved on record report of motor-cycle bearing registration no. PB02-BY-9546 **Ex.P1/PW3**, certificate under Section 65B Evidence Act **Ex.P2/PW3** and report of RTA Office, Amritsar **Ex.P3/PW3**. He deposed that as per record vehicle bearing registration number PB-02-BY-9546 is registered in the name of Santosh Baba.

15. Accused have been implicated in the present case for committing the offences under section 379/411 IPC and therefore, it was burdened upon the prosecution to prove on record all the requisite ingredients of said offences. **Section 379 IPC** provides punishment for the offence of theft which is explained in section 378 IPC as “*whoever intending to take dishonestly any movable property out of the possession of any person without that person’s consent, moves that property in order to such taking is said to commit theft*”.

16. After perusal of entire testimony on record it can easily be make out that for the fixing of liability of accused under section 379 IPC, none of the prosecution witnesses have seen the accused committing the offence of stealing the motorcycle in question. Moreover, recovery of stolen property under Section-411 IPC is also not proved. FIR in the present case was registered upon secret information and hence, raid was conducted. It is asserted that accused was apprehended along with the stolen motorcycle during the raid. It is further averred that the said motorcycle belonged to Santosh Baba who identified the same. However, to the dismay of

prosecution, the said Santosh Baba has not appeared in the court and deposed about identification of the motorcycle allegedly recovered from the accused. Neither any bill of ownership has been proved by the prosecution. Moreover, as submitted by the IO himself, engine number and chassis number of the case property produced in the court is also not legible. In such circumstances, prosecution has failed to prove that the motorcycle allegedly recovered from the accused belongs to Santosh Baba and is connected with the present case. Furthermore, no independent witness during recovery was joined by the police, thus, possibility of false implication cannot be ruled out. Therefore, there is no qualitative evidence to prove that accused has committed the alleged theft or any recovery is affected from him.

17. It is cardinal principle of criminal jurisprudence that the prosecution has to prove its case beyond any shadow of reasonable doubt, but in the instant case, prosecution has failed to discharge this obligation and thus, the charge allegations against the accused does not stand proved. The accused cannot be connected with the alleged offence on the basis of suspicion and hearsay evidence because there is not even an iota of evidence to show that accused has committed the theft as alleged by the prosecution. In case of any doubt in the case of the prosecution, its benefit has to be extended to the accused. The accused cannot be connected with the alleged offence by any stretch of imagination.

18. In view of the aforesaid discussion, this Court is of the opinion that prosecution has miserably failed to prove its case beyond reasonable

doubt. As such, substantiating benefit of doubt in favour of the accused namely Jasbir Singh, he is ordered to be ***acquitted***. His bail bonds and surety bonds to remain operative till the expiry of period of appeal or revision, if any. Case property, if any, be disposed of as per rules, after the expiry of period of filing an appeal or revision, if any and file be consigned to record room, after due compliance.

Pronounced in open Court:
Dated: 21.11.2023

(Prabhjot Kaur), PCS,
Judicial Magistrate Ist Class,
Batala.

Kanchan, Steno-II

(Prabhjot Kaur), PCS,
JMIC, Batala, 21.11.2023

Present: Sh. Tejinderpal, APP for the State.
Accused Jasbir Singh on bail with counsel
Sh. G.S. Randhawa, Advocate.

No DW is present. Despite effective opportunity, defence has failed to examine any witness. Accordingly, the defence evidence stands **closed by order**.

Arguments heard. Vide my separate detailed Judgment of even date, both the accused namely Jasbir Singh is **acquitted** from the charges framed against him. His bail bonds and surety bonds stand discharged. File be consigned to the record room after due compilation.

Pronounced in open Court:
Dated: 21.11.2023.

(Prabhjot Kaur), PCS,
Judicial Magistrate Ist Class,
Batala.

Kanchan, Steno-II

(Prabhjot Kaur), PCS,
JMIC, Batala, 21.11.2023