

State v. Pardeep

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HRRH030154212019



Presented on : 27-11-2019
Registered on : 27-11-2019
Decided on : 18-07-2026
Duration : 6 years, 7 months, 21 days

**IN THE COURT OF
Chief Judicial Magistrate
AT ,Rohtak
(Presided Over by Sh. Mohommad Sageer)**

CHI/2058/2019

State Versus Pardeep son of Satbir, r/o 1331/1 Surya
Nagar, Rohtak.
...Accused

F.I.R No. 269 of 22.04.2019
U/Ss. 457/380 IPC
Police Station. City, Rohtak.

Present : Mr. Deepak Chahal, Ld. APP for the State.
Accused Pardeep in custody represented by LADC.

JUDGMENT:-

The above named accused has been sent up to face trial for commission of offence punishable under Sections 380 & 457 IPC by the police of Police Station, City, Rohtak.

2. The brief facts of the prosecution case are that present case was registered on the complaint of complainant Vijender Bhardwaj son of Surat Singh, r/o Indra Colony, Rohtak dated 22.04.2019, wherein he stated that he had one house at Shastri Nagar, Rohtak in which he has constructed one office of Property dealing. In the night of 20.04.2019, he

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was sleeping in the office and one submersible was running in his house. At around 2.30 AM, when he walk up to stop the submersible then he saw that his mobile phone and Rs. 29,250/- were missing from his pocket. Mobile phone was carrying sim No. 98136-52511 marka Redmi. These articles were got stolen by some unknown persons. He has been trying to find out the thief on his own till date but could not. Action be taken against unknown theif.

3. On the basis of this, present case was got registered u/s 457 & 380 IPC. Investigation was started. During the course of investigation, the accused was arrested. On completion of investigation, challan against the accused was produced before this court.

4. Copy of challan was supplied to the accused free of cost as per Section 207 Cr.P.C and on finding a prima facie case punishable under Sections 380 & 457 IPC, accused was charge sheeted vide order dated 06.02.2020 to which accused pleaded not guilty and claimed trial.

5. In order to prove its case, prosecution examined following witnesses:-

PW-1	: SI Harender
PW-2	: Vijender-complainant
PW-3	: ASI Kuldeep-IO

6. Besides this following documents are as under:-

Ex.PW1/A	Affidavit of SI Harnender
Ex.PW1/B & C	Copies of register No. 19
Ex.PW2/A & B	Complaint & supplementary statement

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Ex.PW3/A	Police proceedings
Ex.PW3/B	Site plan
Ex.PW3/C	Disclosure statement of accused Pardeep
Ex.PW3/D	Recovery memo
Ex.PW3/E	Site plan of recovery
Ex.PW3/F	Demarcation memo
Ex.PX	FIR

7. Thereafter, learned APP for the State has closed the prosecution evidence vide separate statement dated 09.07.2026.

8. Statement of accused under Section 313 Cr.P.C. was recorded in which entire incriminating material came in prosecution evidence was put to accused to which he denied all the allegations and pleaded that he has been implicated in a false case. Accused opted not to lead evidence in his defence.

9. Learned APP for the State has argued that prosecution has fully proved its case and prayed for conviction. However, ld. defence counsel has argued that the prosecution has miserably failed to prove its case against the accused beyond reasonable shadow of doubt.

10. I have heard both the parties and perused the case file carefully. After hearing the arguments, the court has come to the conclusion that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt for the following reasons –

11. This case has been registered by the police on the complaint of complainant Vijender PW2 who only stated that some unknown person entered in his house/office and committed theft of his mobile phone and cash amount and gave complaint Ex. PW-2/A. Later on, he gave another

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application wherein he stated that he mentioned the name of accused Pardeep and Raju who were seen roaming around his office on that day. He did not depose that he saw the accused while committing theft nor he deposed that the accused Pardeep was the person from whom he got any stolen article or seen him while committing theft. In this manner, he did not identify the accused. His testimony is not direct and nothing came against accused Pardeep in his deposition. Apart from him, there is no person who is an eye witness rather other witnesses are official in nature who only prepared documents attached with the challan.

12. Further, the prosecution has only relied upon the disclosure statement of the accused Ex. PW-3/C and recovery memo of currency notes Ex. PW-3/D. However, it is settled law that disclosure statement given by the accused in police custody to the police is not admissible unless there is some recovery of any fact or evidence as per Section 27 of Indian Evidence Act. As per section 27 of the Indian Evidence Act, only so much of such information as discovered in consequence of information received from a person accused in any offence in the police custody, may be proved as relates distinctly to the fact thereby discovered. Hon'ble Supreme Court in the case titled as **Mohd. Inayatullah Vs. State of Maharashtra, AIR 1976 SC 483**, has held that for the application of section 27 of the Act, the statement must be split into its components and to separate the admissible portion. Only those components of portions which were the immediate cause of the discovery would be legal evidence

and not the rest which must be excised and rejected. The recovery of currency notes of Rs. 2,000/- cannot be considered because currency notes can be found from the possession of any person and no specific number of the notes have been provided in the complaint. Therefore, there is no recovery of the stolen article proved.

13. Further, there is no eye witness of the incident who could have deposed that the accused has committed theft in question in front of his eyes. There is no direct evidence of their involvement in this case except the disclosure statements given to the police in police custody which is not admissible as per Indian Evidence Act. There is no recovery effected and proved as per law from accused regarding stolen articles rather the recovery memo seems to be falsely prepared. None of the prosecution witness directly deposed regarding commission of occurrence at the hands of these accused. Therefore, there is nothing on the file admissible as per law against the accused which entitle him benefit of doubt and consequently, he is acquitted from the charges framed against him.

14. It has been held by the Hon'ble Supreme Court in **SL Goswami Vs. State of M.P., 1972 AIR 716**, that the accused is entitled to the benefit of doubt where the onus of proving the ingredients of the offence is not discharged by the prosecution.

15. It was also held in **Narender Singh and Anr vs. State of M.P 2004 (3) RCR Criminal 613**, Hon'ble Supreme Court of India has held

that presumption of innocence is a human right. Burden of proof remains on prosecution. Similarly, in Suchan Pal Vs. Phani Pal and Anr reported in 2004 (1) RCR Criminal 221, the Hon'ble Supreme Court of India held that prosecution can succeed by substantially proving the version it alleges. It must stand on its own legs and cannot take advantage of the weakness in defence case. 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 guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted.

16. Hence, in view of above discussion, this Court is of the considered view that the prosecution has miserably failed to prove the guilt of the accused beyond reasonable doubt. Therefore, accused Pardeep is acquitted of the charges framed against him. Accused be released from the custody, if not required in any other case. File be consigned to the record room.

Announced in open Court.
Dated :-18.07.2026

(Mohammad Sageer)
Chief Judicial Magistrate,
Rohtak. UID No. HR0381.

Note: Certified that this judgment contains 06 pages and each page has been duly checked and signed by me.

Dinesh

(Mohammad Sageer)
Chief Judicial Magistrate,
Rohtak. UID No. HR0381.