

**IN THE COURT OF RAJWINDER KAUR-I, PCS,
SUB DIVISIONAL JUDICIAL MAGISTRATE, JAGRAON
UID No. PB0352**

Case No.	180
CIS No.	CHI-180-2020
CNR No.	PBLDB1-001016-2020
Date of Institution	09.03.2020.
Date of decision	05.08.2024

State Versus 1.Gurwinder Singh @ Monu son of Kulwant
Singh resident of Kothe Aath Chak, near Lande
Phatak Jagraon, District Ludhiana.
2.Mandeep Singh son of S.Gurcharan Singh r/o
village Kothe Aath Chak(**Died**).
.....Accused.

**FIR No.201 dated 04.10.2019
Under sections 379/411/34 of Indian Penal Code.
Police Station City Jagraon.**

Present: Sh. Harfateh Singh, Ld. APP for the State.
Proceedings against accused Mandeep Singh abated.
Accused Gurwinder Singh on bail represented by
Sh.I.S.Dholan Advocate.

JUDGMENT

1. Accused in the present case have been forwarded by
Station House Officer, Police Station City Jagraon to face the trial
under sections 379/411/34 of Indian Penal Code, 1860
(hereinafter referred as “IPC).
2. Brief facts of the story of prosecution, on the basis of
statement suffered by complainant Amandeep Mehta son of
Sh.Surinderpal Mehta r/o Street no.8, Gurdeep Nagar, Jagraon

District Ludhiana are to the effect that he is running a motor cycle stand at Bus Stand Jagraon from the last 12 years on contract. On 03.10.2019 at about 09:00 AM, Sandeep Kumar parked his motor cycle make Platina bearing Regn.no.PB.25D.1914 and went on his duty and he issued a receipt to him and at about 01:00 PM, two persons tried to depart from the parking barrier on the motor cycle of Sandeep Kumar and when he enquired about receipt, said persons speed away the motor cycle and left the spot. He also alleged that at about 03:00 PM, Sandeep Kumar came and showed his receipt and asked for his motor cycle and then he told him that two persons came there and had stolen his motor cycle and he tried to search them but could not succeed and now, he came to know that theft was committed by present accused persons namely Gurwinder Singh @ Monu son of Kulwant Singh and Mandeep Singh son of Gurcharan Singh both rs/o village Kothe Aath Chak Tehsil Jagraon. On these allegations, present case has been registered against accused persons. Investigation was initiated. Statements of witnesses were recorded. Accused were arrested. Recovery of motor cycle was effected from accused Mandeep Singh. Rough site plan of place of recovery was prepared and statement of witnesses were recorded. After the completion of investigation, challan against accused persons was prepared and presented in the court.

3. On appearance of the accused before the court, copies

of the challan and other documents as relied upon by the prosecution were supplied to the accused free of cost as envisaged under section 207 of Cr.P.C. Separate statement of accused recorded in this regard.

4. It is pertinent to mention here that accused Mandeep Singh is stated to have expired and proceedings against accused Mandeep Singh stood abated vide order dated 28.05.2024.
5. After hearing the Learned APP for the State and the Learned defence counsel and perusing the case file, charge under sections 379, 411 of Indian Penal Code was framed against the accused, to which, accused did not plead guilty and claimed trial.
6. In order to prove its case, prosecution examined Amandeep Mehta-complainant as PW-1 who deposed regarding theft of motor cycle make Plainta bearing regn.no.PB.25D.1914 parked by Sandeep Kumar at cycle stand of Bus Stand Jagraon committed by two unknown persons. He denied to identify the accused present in the court as the same person who committed theft. Due to hostile stance of complainant, he was declared hostile and cross-examined by APP for the state with the permission of the court but nothing material favourable to prosecution has come out of it.
7. Prosecution also examined investigating officer ASI Gurmeet Singh as PW-2 who deposed with regard to investigation

conducted by him in this case and effecting arrest of accused on the identification of complainant and proved on record statement of complainant as Ex.P-1, ruqa as Ex.P-2/1, rough site plan as Ex.P2/2, arrest memo of accused as Ex.P-2/3, recovery memo of motor cycle as Ex.P-2/4, identification memo of accused as Ex.P-2 and rough site plan of place of recovery as Ex.P-2/5.

8. Prosecution also examined retired ASI Darshan Singh as PW-3 who being member of police party headed by ASI Gurmeet Singh investigating officer of this case deposed about investigation conducted by IO in this case and recovery of motor cycle effected from accused Mandeep Singh on the identification of complainant and also proved on record statement of complainant as Ex.P-1, ruqa as Ex.P-2/1, rough site plan as Ex.P2/2, arrest memo of accused Mandeep Singh as Ex.P-2/3, recovery memo of motor cycle as Ex.P-2/4, identification memo of accused by complainant as Ex.P-2 and rough site plan of place of recovery as Ex.P-2/5 and identification memo of motor cycle by Jagdish Kumar father of Sandeep Kumar as Ezx.P-3/1. s
9. Prosecution also examined Jagdish Kumar as PW-4 who deposed that motor cycle bearing no.PB.25D.1914 was used by his son Sandeep Kumar. He also deposed that motor cycle stolen from cycle stand Jagraon was recovered by the police and he identified the motor cycle vide identification memo Ex.P-3/1.
10. Thereafter, APP for the state closed the prosecution

evidence by suffering a separate statement.

11. On closure of prosecution evidence, statement of accused Gurwinder Singh was recorded under Section 313 Cr.P.C, whereby all the incriminating circumstances were put to the accused persons, which have been denied by him and he pleaded innocence and his false implication but he does not desire to lead any evidence in defence.

12. Thereafter, learned APP for the State has argued as per the plea of the prosecution.

13. On the other hand learned defence counsel has vehemently argued that the prosecution has miserably failed to establish the identity of the accused to be the same persons, who committed theft of motor cycle and hence he is entitled to acquittal.

14. I have heard the Learned A.P.P. for the State and Learned defence counsels and have gone through the case file very carefully and minutely.

15. The point of determination in this case is as under:-

1. *Whether on 03.10.2019 at about 01:00 PM in the area of P.S.City Jagraon accused had committed the theft of motor cycle make Platinta bearing no.PB.25D.1914 from the possession of complainant Amandeep Mehta, which was belonging to PW Jagdish Kumar? If so, its effect?*
2. *Whether on 04.10.2019, accused retained in his*

possession motor cycle bearing No.PB.25D.1914 knowingly or having reason to believe the same to be stolen property and belonging to PW Jagdish Kumar If so, its effect?

16. **Point of determination No.1 and 2**

17. Both the point of determination are taken up together being interconnected. I have gone through the entire case file and evidence led by the prosecution and I am of the view that present FIR was registered on the statement of complainant Amandeep Mehta suffered before ASI Gurmeet Singh to the effect that accused have committed theft of motor cycle belonging to Sandeep Kumar from his cycle stand running at Bus Stand Jagraon but when complainant Amandeep Mehta stepped into witness box as PW-1, then, he failed to identify the accused present in the court claiming that the accused present in the court are not the same persons who committed theft, upon which, he has been declared hostile by learned APP for the state. Not only this, when investigating officer ASI Gurmeet Singh has been examined as PW-2, he deposed that complainant Amandeep Mehta has identified the accused as a person who has stolen the motor cycle and on the identification of complainant, he prepared the identification memo Ex.P-2. Similarly, retired ASI Darshan Singh deposed qua preparing identification memo Ex.P-2 by I.O on the identification of accused by the complainant but in the present case, complainant Amandeep

Mehta examined as PW-1 did not support the version of the prosecution and failed to identify the accused present in the court as a person who committed theft. So, evidence of said witness destroyed the entire case of the prosecution. No other witness has been cited or examined by prosecution who could depose to have seen accused while committing theft of motor cycle and as such, there is nothing on record to prove the version of prosecution.

18. Not only this, prosecution has also failed to produce and prove on record case property, which also goes to the roots of the case of prosecution. Though, prosecution examined PW-2 ASI Gurmeet Singh and PW-3 retired ASI Darshan Singh but they have proved only investigation part of the case and their testimonies carry no weight until and unless identity of accused who committed theft, is proved and case property is produced in the court. Since, version of prosecution and identity of the accused could not be establish beyond the shadow of reasonable doubt, so he cannot be convicted in the present case. Thus, prosecution has miserably failed to prove the essential ingredients of the charges so framed against the accused persons to connect them with the crime. So, both the point of determination are decided against the prosecution and in favour of the accused.

19. As a sequel to above discussion, this court is of the view that prosecution has miserably failed to prove its case

against the accused beyond all shadow of reasonable doubt and as such, by extending the benefit of doubt, I acquit the accused Gurwinder Singh @ Monu present in the court of the offence charged with. Bail bonds and surety bonds of accused are discharged. Case property be disposed of after the expiry of period of appeal or revision or subject to result of appeal/revision, if any. File be consigned to record room, Jagraon.

Pronounced
Dated 05.08.2024

Rajwinder Kaur-I, PCS
Sub Divisional Judicial Magistrate,
Jagraon. UID PB 0352