

**In the Court of Ravipal Singh,
Judicial Magistrate 1st Class, Phillaur.
UID No. PB-0410**

CIS Case No.	CHI/19/16
CNR No.	PBJLBI—0006812016
Date of Institution	15.02.2016
Date of order	27.08.2018

State

Versus

- 1.Raja Bhaiya c/o Taja Singh, son of Sadhu Singh, resident of Bharomajara, Police Station Behrampur, District Saheed Bhagat Singh Nagar (Already convicted),
- 2.Sandeep Kumar @ Sandeep son of Harmesh Lal, resident of Bharomajara, P.S.Behram District SBS Nagar,
- 3.Ranjit Pal @ Rana son of Sarwana Ram, resident of Bharomajara, P.S.Behram, District Saheed Bhagat Singh Nagar,
4. Sunny Kumar Bangar @ Sunny son of Shinder Ram, resident of Bharomajara, P.S.Behram, District Saheed Bhagat Singh Nagar,

Accused

*FIR No. 202 dated 11.12.2015,
Under Section 379, 411 IPC,
P.S.Goraya, District Jalandhar(Rural).*

Present : Sh. Gursharan Singh, learned APP for the State.

Accused Raja Bhaia already convicted vide judgment dated 07.11.2016..

*Accused Sunny Kumar, Sandeep Kumar and Ranjit Pal on bail with counsel
Sh. Kishore Khela Advocate and Sh. Jaspal Kaler Advocate.*

JUDGMENT

1. Accused were forwarded by SHO, Police Station Goraya to face the trial for commission of offence punishable under Section 379,411 IPC of Indian Penal Code, 1860 (herein after called 'IPC').

2. In brief, FIR in this case is outcome of a secret information allegedly received on 11.12.2015 by ASI Nirmal Singh at village Dhandwal, Bus Stand. As per said information and prosecution case, it was informed that Sandeep Kumar, Ranjit Pal, Sunny Kumar and Raja Bhaia i.e. accused of present case were habitual for committing theft of computer articles from Government Schools. They were stated to be roaming and wondering in the said locality along with stolen computer articles and could be apprehended red handed.

3. Considering information trustworthy, ASI Nirmal Singh reduced into writing the information as rukka and sent in the hands of C Varinder Singh for registration of FIR Under Section 379/411 IPC. He further convened a check post at Dusanjh Kalan, Kultham Road and arrested present accused with one motorcycle bearing No.PB 37-E-6082 and another motorcycle bearing no. PB-32S-0503. Further, they were arrested in the present case and their disclosure statement was recorded regarding commission of alleged theft of computer articles from Government schools of village Maksoodpur, Pharala, Jassomajara of District S.B.S.Nagar as well as from village Dandwal, Chakdesraj of P.S.Goraya. As per further case of prosecution after effecting recovery of stolen articles including monitor,mouse, CPU, LCDs etc, they were produced before the Court. After After completion of investigation, Challan was prepared and presented in the Court

4. On appearance of accused in the Court, they were supplied copies of Challan and documents lying with it free of costs under Section 207 of Code of Criminal Procedure, 1973 (herein after called 'Cr.P.C'). Further, finding a prima-facie case, accused were served with Charge-Sheet for offence

punishable Under Section 411 IPC to which, accused pleaded not guilty and claimed trial. So trial was commenced.

5. In order to prove the guilt of the accused, prosecution has examined PW-1 HC Harjit Singh, PW-2 Harpreet Kaur, PW-3 ASI Nirmal Singh, PW-4 Nirpaljeet Singh, PW-5 Ashok Kumar, PW-6 Ravi Basra, PW-7 Satpal. Thereafter, evidence of prosecution was closed by order being failed to conclude evidence despite numerous opportunities.

6. Thereafter, statement of accused under Section 313 of Cr.P.C was recorded with the help of Learned APP for State and learned defence counsel wherein, all incriminating substance were put to accused to which, the accused pleaded false implication. Accused did not lead any defence evidence and closed the same.

7. Arguments are heard.

8. Learned APP for the State has vehemently argued that present accused are habitual of theft of computer articles from different schools and they were caught with such stolen articles, which were stolen from Government Schools of village Dhandwal, Chakdesraj, Gari Maha Singh and Pharwala on 11.12.2015. It is further argued that prosecution witnesses have proved the guilt of accused for retaining such stolen articles and accused are liable to be convicted.

9. On the other hand, learned defence counsel has opposed all the arguments while arguing that accused have been falsely implicated in this case and false recovery is planted upon them. It is specifically argued that as per version of PW-1 HC Harjit Singh and PW-3 ASI Nirmal Singh neither any public witness was joined prior to effecting alleged recovery of stolen articles

nor alleged articles were recovered from any concealed place. It is further argued that accused have committed nothing wrong and they are liable to be acquitted.

10. The Court has heard the rival arguments and perused the judicial file.

11. When the Court has perused the judicial file and **weighed quality** of evidence led by prosecution to prove alleged recovery of computer articles from present accused, it is clearly established that not only such recovery is doubtful, but the concealment of alleged articles by present accused is in doubt. In this regard, the testimony of PW-1HC Harjit Singh and PW-3 ASI Nirmal Singh is important to be discussed. In the examination in chief, PW-1 has stated that present accused were booked on the basis of secret information received by ASI Nirmal Singh. Firstly, there is no explanation rendered by PW-1 and PW-3 as to why no independent public witness was joined prior to effecting alleged recovery had the police received previous information having a plenty time. There is clear non-compliance of provision of Section 100(4) Cr.P.C without any explanation.

12. Further, during his cross examination, PW-1 as well as PW-3 have specifically stated that no person alleged in report regarding theft of computer articles was with them. They have further specifically stated that no articles were recovered from the accused at the time of their arrest. They have further stated with clear words that alleged place of recovery is easily accessible to public and alleged recovered articles were lying in the fields openly without any cover. It simply shows that the fact that only present accused concealed or kept said stolen articles at alleged place of recovery is in doubt as anybody of

the public had clear access to said place. Similarly, had stolen articles were concealed by present accused, who were informed to be habitual offenders, said articles ought not be kept open. Rather, said articles must be concealed .

13. Even otherwise, PW-1 and PW-3 and more specifically, PW-3 ASI Nirmal Singh i.e. Investigating Officer of the case has categorically stated that even at the time of alleged recovery he neither called people of locality nor recorded statement of owner of said fields and even did not try to do so. Apart from these facts, PW-3 has admitted that he never taken into possession original bills of stolen articles from school concerned. No doubt, prosecution has examined staff of such school as PW-2 and PW-4 to PW-6, but they do not know anything about the alleged theft. Rather, all of them have stated to see present accused for the first time itself.

14. So, in these circumstances, the case of prosecution is apparently not free from reasonable doubts regarding recovery of stolen articles allegedly recovered from accused. So, affording benefit of doubt, accused Ranjit Pal, Sandeep Kumar and Sunny Kumar Banger are acquitted of the charges frame against them. Bail bonds and surety bonds of accused shall remain intact for a period of six months under section 437 A Cr.P.C. In case, no appeal or revision is filed within the period of limitation, then the bail bonds and surety bonds of accused stand discharged automatically. Case property, if any, shall be disposed of under the rules after expiry of period of limitation for filing Appeal or Revision as the case may be. File be consigned to Record Room.

Pronounced in open Court.

Dated: 27.08.2018

*(Sunita Rani Judgment Writer) **

**(Ravipal Singh),
Judicial Magistrate 1st Class,
Phillaur/ UID No.PB-0410**

CNR No.	PBJLBI—0006812016
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State Vs. Raja Bhaia and others

Present : Sh. Gursharan Singh, learned APP for the State.

Accused Raja Bhaia already convicted on 07.11.2016..

*Accused Sunny Kumar, Sandeep Kumar and Ranjit Pal on bail with counsel
Sh. Kishore Khela Advocate and Sh. Jaspal Kaler Advocate.*

Accused closed their defence evidence.

Arguments heard. Vide separate detailed judgment of even date, the accused are acquitted of the charges framed against them. Bail bonds and surety bonds of accused shall remain intact for a period of six months under section 437 A Cr.PC. In case, no appeal or revision is filed within the period of limitation, then the bail bonds and surety bonds of accused stand discharged automatically. Case property, if any, shall be disposed of under the rules after expiry of period of limitation for filing Appeal or Revision as the case may be. File be consigned to Record Room.

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Dated: 27.08.2018

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Judicial Magistrate 1st Class,
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