

IN THE COURT OF SH. MANPREET SOHI, JUDICIAL
MAGISTRATE 1st CLASS, DASUYA.

Case Number: CHI/184/2025
Date of Institution: 01.05.2025
Date of decision: 15.07.2025

State
Vs.
1.Abhi son of Kali, resident of Chandigarh colony, Police Station, Tanda, District Hoshiarpur. 2. Shambu son of Chaman Lal, resident of Chandigarh colony, Police Station, Tanda, District Hoshiarpur. 3. Kakli son of Chaman Lal, resident of Chandigarh colony, Police Station, Tanda, District Hoshiarpur. Accused.

FIR No.32 dated 14.04.2025
Under Sections 331 (2), 305, 62 of BNS.
Police Station, Garhdiwal.

Present: Sh.Amarjeet Singh, Ld. APP for the State.
Accused Abhi, Kakli and Shambu on bail represented by Sh.Iqbal Singh Gozra Advocate.

JUDGMENT

1. The above said accused has been sent up for trial by the officer Incharge of Police Station Tanda to face trial for offence punishable under Sections 331 (2), 305, 62 of BNS.

BRIEF FACTS

2. The criminal law was set into motion upon the statement of

(Manpreet Sohi), PCS
JMIC, Dasuya, 15.07.2025

complainant Jaswinder Kaur alleging that on 14.04.2025 at about 01:30 PM, she had gone towards her parental house at village Susa, District Hoshiarpur and on the same day she received a telephonic call from her neighbour and he disclosed that theft has been committed into your house and three thieves were apprehended by the public and all the accused disclosed their name as Abhi, Shambu and Kakli all residents of Chandigarh colony, Tanda and all accused were injured when they were climbing the wall of her house or that he came to her house and she found all the accused persons broken the doors and scattered the things here and there or that no jewellery, money and anything was stolen from her house, but above said accused persons tried to commit theft in her house. Thereafter, her statement was recorded by the police. Upon her statement the present FIR was registered. The accused were arrested. After completion of all other necessary formalities challan against the accused was prepared and presented before the Court.

3. On appearance before the court the accused were supplied the copies of all the documents relied upon by the prosecution as per the mandate of section 207 Cr.P.C.

4. After, the conjoint reading of the report u/s 173 Cr.P.C and all other documents relied upon the prosecution, a prima facie offence punishable under Sections 331 (2), 305, 62 of BNS was made out against accused for which the accused were charge sheeted. The charge against the accused was read out to the accused in simple punjabi language and after understanding the same the accused pleaded not guilty and claimed trial.

(Manpreet Sohi), PCS
JMIC, Dasuya, 15.07.2025

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

PW-1	Jaswinder Kaur	Complainant who did not support the case of prosecution.
PW-2	ASI Kuldeep Singh	Investigating officer, who deposed as how the events have unfolded and proved on record statement of complainant Ex.PA, FIR Ex.PB, endorsement over ruqa Ex.PW2/C, site plan Ex.PW2/D, arrest memos of accused persons Ex.PW2/E to Ex.PW2/G, their persons search memos Ex.PW2/H to Ex.PW2/J
PW-3	Harjit Singh, Sarpanch	Eye-witness who deposed on the lines of prosecution story.
PW-4	ASI Balbir Singh	who deposed in support of the prosecution story and proved on record arrest memos of accused persons Ex.PW2/E to Ex.PW2/G, their persons search memos Ex.PW2/H to Ex.PW2/J.

6. After that, the learned APP for the state closed the prosecution evidence.

7. Statement of the accused Abhi, Kakli and Shambu recorded in terms of section 313 Cr. P.C, so as to apprise their of the incriminating circumstances appearing against their in evidence led by prosecution to which

(Manpreet Sohi), PCS
JMIC, Dasuya, 15.07.2025

they pleaded that they are innocent. A false FIR has been registered against them.

8. Accused did not opt to lead the defence evidence.

9. Learned APP for the State argued that the accused has committed the offences punishable under Sections 331 (2), 305, 62 of BNS and he prayed for conviction of the accused by taking into consideration the statement of complainant and other witnesses, recorded by the police.

10. Learned counsel for accused has vehemently argued that PW1 complainant who is material witness as per prosecution story, has not supported the case of prosecution and has resiled from her earlier statement, so the offences in question are not proved beyond shadow of reasonable doubt. He has submitted that since the entire case of prosecution has gone unproved, as such, the present accused deserves to be acquitted

11. I have considered the submissions put forth by learned APP for State as well as learned counsel for accused and have gone through the judicial file. In this case, following points for determination emerge out for returning finding :-

- 1. Whether on 14.04.2025 in the area of P.S Garhdiwal, accused have committed house trespass by entering in the house of complainant for human dwelling for safe custody of property in order to theft?**
- 2. Whether the evidence on record led by prosecution is sufficient to held the accused guilty for commission of offence punishable under Sections 331 (2), 305, 62 of BNS?**

(Manpreet Sohi), PCS
JMIC, Dasuya, 15.07.2025

POINT NO.1 TO 4 FOR DETERMINATION:-

12. All points for determination have been taken up together for the sake of brevity and to avoid repetition. Jaswinder Kaur who was the complainant of present case, while appearing as PW-1 deposed that she gave evidence before the police on 14.04.2025 under the political influence. She further deposed that Abhi, Kakli and Shambu have no role in the present FIR. She does not know the accused persons who are present in the Court today. She further deposed that she never seen the above said accused persons before today. She was declared to be suppressing truth and were allowed to be cross-examined by the learned APP for the State, but even after lengthy cross-examination, nothing favourable to the prosecution came out.

13. Similarly, PW-3 Harjit Singh, Sarpanch who was the eye of present case, while appearing as PW-1 deposed that when he reached at the spot the accused persons are not in the premises of the house of the complainant Jaswinder Kaur. He further deposed that when he reached at the spot accused Abhi was found in the plot nearby the house of complainant. No one has seen the accused while entering into the house of complainant and scattered the utensils and other things in the house. No recovery was effected from the accused neither anything was stole by the accused persons. The accused Shambu and Kakli were caught from the disclosure statement made by the accused Abhi to the public. An opportunity to cross examine the said witness was given to learned defence counsel, but nothing incriminating could

(Manpreet Sohi), PCS
JMJC, Dasuya, 15.07.2025

be brought on record in the cross-examination of said witness.

14. PW-2 ASI Kuldeep Singh was the Investigating Officer in this case. He has deposed that he did not arrest the accused at the spot, but they were handed over by the villagers. He further deposed that no recovery have been effected from the accused persons. Since, the material witnesses failed to prove that the present accused has committed the alleged offence, his testimony is not sufficient to make the accused liable.

15. PW-4 ASI Balbir Singh was the member of police party in this case. He deposed that no recovery have been effected from the accused persons. He has simply deposed about the arrest of accused.

16. No doubt, statement of a hostile witness is not to be thrown overboard and that part of the statement of hostile witnesses, which is consistent with the prosecution story, can still be of help to convict the accused. In case titled as **State of Rajasthan Vs. Teg Bahadur 2004 (4) RCR (Cr.) 538, Hon'ble Supreme Court of India** has held that “*evidence of a hostile witness should not be totally rejected if submitted in favour of the prosecution or accused, but it can be subjected to close scrutiny and that portion of the evidence, which is consistent with the case of the prosecution or defence may be accepted*”. I have gone through the statement of PW-1 from that angle also. But, I do not find these to be of any assistance to the case of prosecution. It transpires that all the material witnesses in the present case have turned hostile and failed to support the case of prosecution. All the witnesses examined by prosecution have failed to identify accused present in

(Manpreet Sohi), PCS
JMJC, Dasuya, 15.07.2025

the court, as perpetrator of the alleged offence. Instead of supporting the prosecution version, complainant witness has shattered it.

CONCLUSION

17. As such, the allegations against the accused are highly doubtful and taking into account all these facts in totality, in the considered view of this Court, prosecution has failed to prove its case against the accused. Accordingly, accused Abhi, Kakli and Shambu acquitted of the charges framed against them. Bail bonds and surety bonds of accused stands discharged. Accused are directed to furnish personal bail bonds in the sum of Rs. 30,000/- under Section 437-A Cr.P.C. Personal bail bonds furnished by the accused. The personal bail bonds are accepted and attested. Case property if any, be dealt with as per rules after expiry of period of limitation for filing appeal or revision, or subject to the result of appeal or revision, if any. File be consigned to the Record Room, after its compliance.

Pronounced in open Court
Dated :- 15.07.2025

Sandeep Kumar JW

(Manpreet Sohi), PCS,
Judicial Magistrate Ist Class,
Dasuya. UID No. PB0656

(Manpreet Sohi), PCS
JMIC, Dasuya, 15.07.2025