

**IN THE COURT OF KANWAL JIT SINGH, PCS
JUDICIAL MAGISTRATE FIRST CLASS, RAJPURA**

CNR No. : PBPTA1-001358-2021
CIS No. : CHI/158/2021
Date of Decision : 06.08.2026

State

Vs.

1. Jaswinder Singh @ Jelly son of Harminder Singh resident of village Naushehra Police Station Shamdu, presently on rent near Old Khera, Rajpura.
2. Gurvinder Singh @ Manna son of Sher Singh resident of village Khadola, police Station Sadar, Rajpura, District Patiala.
3. Ramandeep Singh son of Sukhwinder Singh resident of village Saraibanjara, Police Station Sadar, Rajpura, District Patiala.

.....Accused

F.I.R. No. 25 Dated 05.04.2019
Under Sections 379, 411 & 120 Indian Penal Code
Police Station : Sadar, Rajpura.

Present: Ld. APP for the State along-with Mrs. Pooja Oberoi
Advocate for complainant.
Accused Jaswinder Singh on bail in this case, but in custody in some other case, produced through video conerencing, represented by counsel Sh. Tejinder Singh Kamboj Advocate.
Accused Gurwinder Singh @ Manna on bail in this case but in custody in some other case, produced through video conferencing represented by counsel Sh. Sanjay Bagga Advocate.
Accused Ramandeep Singh on bail with counsel Sh. Rakesh Kapoor Advocate.

JUDGMENT:

The above named accused persons have been sent up by the

Officer In-charge of Police Station, Sadar, Rajpura in the FIR No. 23 dated 05-04-2019 to face trial in the Court for the offence punishable under Sections 379/411/120-B of Indian Penal Code registered at Police Station Sadar, Rajpura.

2. Brief facts of the prosecution case are that on 04.04.2019 at about 10:00 PM complainant Parwinder Singh who is painter by profession was going from Rajpura to Sirhind on his motorcycle bearing No. PB-52-B-4157. On the way one unknown person (accused Ramandeep Singh) asked for a lift. The complainant gave him lift on his motorcycle. When they reached near Jashan Hotel on the GT Road then the complainant stopped the motorcycle to answer the call of nature. However, taking advantage of the dark night and situation that person (accused Ramandeep Singh) allegedly started the motorcycle and ran away with it including complainant's Oppo mobile phone with a SIM No. 62809-52187 in that bag attached with the tank of motorcycle. However complainant searched for the motorcycle but could not find it. During investigation police prepared the site plan and recorded the statements of witnesses. On 18.06.2019 the stolen motorcycle was recovered from bushes near a closed factory at village Aluna on the basis of secret information and Section 411 IPC was added. Later during the investigation of another case FIR No. 99 dated 06.10.2019 accused Ramandeep Singh, Jaswinder Singh @ Jelly and

Gurwinder Singh @ Manna allegedly made disclosure statements about the present theft. On this basis they were nominated in the present case on 29.11.2019, and Section 120-B IPC was also added. Thereafter, Ramandeep Singh was arrested on 07.01.2020, Jaswinder Singh @ Jelly on 12.12.2020 and Gurwinder Singh @ Manna on 05.01.2021 after they appeared before the police after getting anticipatory bail orders from Ld. Sessions Court. Their disclosure statements were recorded, statements of witnesses were recorded and after finding sufficient material against the accused the police presented the challan under Section 173 Cr.P.C. before the Court.

3. Copies of challan supplied to the accused free of costs as envisaged under Section 207 Cr.P.C.

4. Charge sheet was served on the accused for the commission of offence punishable under Sections 379 & 411 r/w Sec. 120-B of Indian Penal Code, to which accused pleaded not guilty and claimed trial.

5. To prove his case prosecution got examined Parwinder Singh who is the complainant in the present case as PW-1 who corroborated the version of prosecution and proved on record his statement Ex-PW1/A and identified his signature point A and identified the accused present in the court.

6. Paramjit Kaur was examined as PW-2 who deposed that she

has purchased the motor-cycle bearing registration No. PB-52B-4157 Make Hero CD Delux in the year 2019 and same was used by his son Parwinder Singh. On 04.04.2019 his son returned from Rajpura on the aforesaid motor-cycle Marka Hero CD Delux and when he reached on bypass, Rajpura on main G.T. Road, then accused Ramandeep Singh sought lift and he gave him lift and at about 10:00 P.M. he stopped his motor-cycle near Jashan Hotel and when his son went to urinate then accused Ramandeep Singh committed theft of his motor-cycle. Thereafter said motor-cycle was recovered by the police of PP Basantpura.

7. ASI Sukhwant Singh was examined as PW-3 who deposed as per the lines of prosecution and proved on record arrest-cum-intimation memo Ex-PW3/1, personal search memo Ex-PW3/2 and identified the accused present in the court.

8. ASI Baljinder Singh was examined as PW-4 who deposed as per the lines of prosecution and proved on record Zimni No. 3 dated 09.10.2019 Ex-PW4/A and identified his signature at Point A and identified the accused persons.

9. Aman Sharma was examined as PW-5 who deposed that he do not know anything about the facts of the present case. Police never recorded his statement in connection with the present case. He deposed that he has seen the accused persons first time in the court. The

aforesaid witness did not support the prosecution version during his examination in chief and have turned hostile. He was cross-examined at length by Ld. APP for state, but nothing fruitful could be elicited which could said to have favour the case of prosecution.

10. Thereafter evidence of prosecution was closed by order.

11. Statement of accused U/s 313 Cr.P.C. recorded wherein they stated that they are innocent and have not committed any offence. They have been falsely implicated in the present case. Accused opted not to lead evidence in defence.

12. I have heard the Ld. APP for the state as well as ld. counsel for accused and have perused the file carefully.

13. The point of determination is that whether on 04-04-2019 in the area of Police Station Sadar, Rajpura, accused persons hatched criminal conspiracy to commit theft of motor-cycle CD Delux Colour Black with Blue Patti bearing registration No. PB-52B-4157 and were found in possession of stolen property i.e. motor-cycle bearing registration No. PB-52B-4157, thereby committed offence U/s 379 and 411 r/w Section 120-B of Indian Penal Code.

14. Now coming to section 379 IPC, whether accused person can be convicted under section 379 IPC or not. In the present case law was set into motion by the complainant by moving an application Ex-PW1/A before police on the basis of which present FIR was registered

hence prosecution mainly relies upon the testimony of complainant PW1 Parwinder Singh. PW1 Parwinder Singh deposed that on 04.04.2019 accused Ramandeep Singh sought lift on his motorcycle and when he stopped near Jashan Hotel to answer the call of nature then accused Ramandeep Singh fled away with his motorcycle along-with his mobile phone. However his testimony requires careful scrutiny.

15. During cross-examination PW1 Parwinder Singh admitted that it was night time and there was no light near Jashan Hotel i.e. place of occurrence. He further admitted that when his statement Ex.PW1/A was recorded immediately after the occurrence at that time he had not disclosed the identity or description of any accused to the police. Meaning thereby no Test Identification Parade (TIP) was conducted. The FIR itself was registered against an unknown person. The witness was specifically confronted with Ex.PW1/A where nothing with regard to identification of accused Ramandeep Singh has been mentioned. This is a material omission. The occurrence was on 04.04.2019. PW1 Parwinder Singh identified Ramandeep only after he was produced by the police on 07.01.2020 i.e. after more than nine months. Thus the subsequent identification of accused after several months becomes a weak piece of evidence.

16. Although PW1 Parwinder Singh identified accused

Ramandeep Singh in Court but such dock identification without a reliable earlier identification assumes little evidentiary value particularly when the FIR was against an unknown person and there was no prior description of the accused in the earlier version. Moreover Jaimal Singh who has produced accused Ramandeep before the police has not been examined and had been given up by the prosecution vide statement dated 01.06.2026. The prosecution has not produced any convincing evidence to establish how the identity of accused persons came to be known except through alleged disclosure statements made in another criminal case.

17. Moreover Recovery is not proved through reliable evidence. PW1 Parwinder Singh admitted he did not know from where the motorcycle was recovered. No recovery was effected in his presence. Further testimony of PW-3 ASI Sukhwant Singh cannot be relied upon as after recording his examination in chief he has not come for his cross examination. PW-4 ASI Baljinder Singh does not prove the theft. He is only witness with regard to disclosure statement in another FIR and same before police is not substantive evidence and cannot by itself prove the offence of theft. PW5 Aman Sharma the independent witness did not support the prosecution version during his examination in chief and turned hostile. He denied the prosecution story completely. Further the Investigating Officer has failed to appear before the court for

recording his testimony. This Court has also placed reliance upon the Judgment of Hon'ble Punjab and Haryana High Court in case titled as **“Rattan Vs. The State of Punjab (P&H) 1984 C.C. Cases 83 (HC) and Criminal Revision No. 168 of 1982”**. Perusal of the file reveals that charges were framed in the present case on 23-07-2021 after that more than 5 years have been elapsed but prosecution failed to conclude its evidence. Even summons, bailable warrants, non bailable warrants were issued and even last opportunity was also given to the prosecution and non bailable warrants through SSP and Ld. APP were also issued. Therefore left no other option and at last, prosecution evidence was closed by order on 06.08.2026. This Court is of the view that duty of prosecution/investigating agency does not end by presenting the challan in the court but it also requires that the witnesses are timely examined in the court. The speedy trial is right of accused as was held in **A.R.Antulay Vs. R.S.Nayak, 1988 AIR 1531 SC, Maneka Gandhi vs. U.O.I 1978 AIR 597 SC and A.K.Gopalan vs. The State of Madras 1950 AIR 27 SC**. Further the only purpose of investigating agency is not to register a case against the accused and forget about its trial. It is a duty of the investigating officer of the case to bring the witnesses in the court for their testimony at his own responsibility. In the present case what to talk about other witnesses, IO himself failed to appear before the court for his testimony for the reason best known to him. The

reluctant and indifferent behavior of the investigating agency speaks volumes for them. The court has already taken all the coercive method to ensure the presence of witnesses but the adamant and stubborn attitude and approach of the investigating agency forced this court to close the evidence by order. This absence of corroboration raises significant doubt about the truthfulness of the allegations.

18. The prosecution has further failed to prove the recovery of the stolen motorcycle from the conscious possession of any accused. PW-1 Parwinder Singh himself admitted that he did not know from where the motorcycle was recovered and no recovery was effected in his presence. Hence from the above said discussion the essential ingredients of Section 379 and 411 IPC are not proved.

19. Similarly prosecution has failed to establish the offence under Section 120-B IPC. Except for the inadmissible disclosure statements and the testimony of PW5 Aman Sharma who has turned hostile and there is absolutely no evidence of any agreement or meeting of minds between the accused persons to commit theft. Mere suspicion cannot substitute legal proof.

20. Hence in view of the above discussion, prosecution has failed to establish beyond reasonable doubt that accused Ramandeep Singh committed theft of the motorcycle and that accused Jaswinder Singh @ Jelly and Gurwinder Singh @ Manna had made criminal

conspiracy and retained stolen property. The evidence on record is insufficient to sustain conviction. As such, accordingly, accused persons namely Jaswinder Singh @ Jelly, Gurwinder Singh and Ramandeep Singh are hereby acquitted of the charges under section 379 and 411 r/w Sec. 120-B of Indian Penal Code framed against them. Their Sureties are also discharged from their liabilities under the surety bonds. Case property if any be disposed off as per rules. Superintendent of concerned Jail are directed to release the accused persons if not required in any other case. File complete in all respect be consigned to the Record Room, Rajpura, after due compliance and would be taken up as and when accused would move an application for furnishing surety bonds.

Pronounced in open court.
06.08.2026

Disha Ahuja, Stenographer Gr. II

(Kanwaljit Singh), PCS
Judicial Magistrate Ist Class,
Rajpura/UID No. PB0493
Directly dictated on computer

(Kanwal Jit Singh), PCS
JMJC/Rajpura/UID No. PB0493

CNR No. PBPTA1-001358-2021

State VS. Jaswinder Singh (CHI-158-2021)

Present: Ld. APP for the State along-with Mrs. Pooja Oberoi Advocate for complainant.
Accused Jaswinder Singh on bail in this case, but in custody in some other case, produced through video conferencing, represented by counsel Sh. Tejinder Singh Kamboj Advocate.
Accused Gurwinder Singh @ Manna on bail in this case but in custody in some other case, produced through video conferencing represented by counsel Sh. Sanjay Bagga Advocate.
Accused Ramandeep Singh on bail with counsel Sh. Rakesh Kapoor Advocate.

Accused persons namely Jaswinder Singh & Gurwinder Singh produced before me through the medium of electronic video conferencing & identified by warrant officer.

PW-1 Parwinder Singh is present and examined. No other witness of prosecution is present today. Perusal of the file reveals that charges were framed in the present case on 23-07-2021 after that more than 5 years have been elapsed but prosecution failed to conclude its evidence. Perusal of the file shows that summons, bailable warrants, non bailable warrants were issued and even last opportunity was also given to the prosecution and non bailable warrants through SSP and Ld. APP were also issued. Moreover, as per report of Naib court of this court, four time separate Letters to SSP, Patiala has also been issued to ensure the presence of witnesses, but to no avail. Therefore this court has left no other option except closing the evidence of prosecution by

order and hence the evidence of the prosecution is closed by order.

Statement of accused persons U/s 313 Cr. P.C. recorded.

Accused opted not to lead evidence in defence.

Accused Ramandeep requested that he could not arrange the surety for furnishing surety bonds and sought one week time for furnishing surety bonds. Personal bonds in compliance of section 437-A Cr.P.C. by accused furnished. Same have been accepted and attested.

Arguments heard. Vide my separate judgment of even date, accused persons namely Jaswinder Singh, Gurwinder Singh @ Manna and Ramandeep Singh are acquitted from the charge framed against them in this case due to lack of evidence. Sureties are also discharged from their liabilities under the surety bonds. Case property if any be disposed off as per rule. Superintendent of concerned Jail are directed to release the accused persons if not required in any other case. File complete in all respect be consigned to the Record Room, Rajpura, after due compliance and would be taken up as and when accused would move an application for furnishing surety bonds.

Pronounced
06.08.2026

Disha Ahuja, Stenographer Gr. II

(Kanwaljit Singh), PCS
Judicial Magistrate Ist Class,
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