

**IN THE COURT OF KARANVIR SINGH PCS, JUDICIAL
MAGISTRATE IST CLASS, AMLOH**

File No.119/2018
P.Challan no.28 of 25.07.2018
Date of decision: 03.12.2019

State

Versus

1. **Bhinder Ram @ Bhinda** son of Jira Ram;
2. Gurmail Singh son of Avtar Singh;
residents of village Kumbhra, PS Gobindgarh, District
Fatehgarh Sahib.

....Accused

F.I.R. No.53 dated 21.05.2018
Under Section 457, 380 of IPC
Police Station: Amloh.

Present: Sh.Sukhwinder Singh, APP for the State.
Accused on bail represented by Sh.Mewa Singh
Advocate.

JUDGMENT

1. The above named accused has been sent up by the Station
House Officer of Police Station Amloh to face trial for the commission of
offence punishable under sections 457, 380 of IPC.

2. Prosecution version as unfolds from final report under section 173 of Code of Criminal Procedure, 1973 (hereinafter referred to as CrPC) is that Chuna Ram complainant got his statement recorded before ASI Jaspal Singh that there is a Mandir of Baba Bae Parwah in their basti and he used to serve there. A Gulak was placed in that mandir. On 20.05.2018, at about 8.00 p.m, he shut down the door of Mandir and went to home. On 21.05.2018 at about 5.00 a.m., when he went to the Mandir he saw that door of the mandir was opened and lock of the Gulak was broken. He found that money from the Gulak was missing. Thereafter, people were gathered there. After inquiry, they came to know that Binder Ram @ Bhinda and Gurmail Singh broken the lock of Gulak with iron rod and committed the theft of rupees about 2500/2600/-. On the statement of Chuna Ram complainant, ruqa was sent for registration of formal FIR and the site plan was prepared at the instance of complainant. The Gulak was taken into police possession. Accused were arrested alongwith motorcycle without bearing any registration number. Rs.2700/-

were recovered from the possession of accused persons. Statements of witnesses were also recorded. After completion of investigation, challan was presented in the Court.

3. On appearance of the accused, copies of the Challan and other documents relied upon by the prosecution were supplied to the accused, free of costs, as required u/s 207 Cr.P.C.

4. On finding, a prima-facie case against the accused, the accused was charge-sheeted u/s 457, 380 of IPC, to which the accused pleaded not guilty and claimed trial.

5. In order to bring home the guilt of accused under above said sections, the prosecution examined PW1 Chuna Ram, PW2 Kulwinder Singh, PW3 Jaggi Ram and PW4 ASI Jaspal Singh and thereafter the Ld.APP closed the evidence of the prosecution.

6. Statement u/s 313 of the Cr.P.C of the accused was recorded in which all the incriminating evidence appearing against the accused was put to them, to which they denied the

same and pleaded false implication.

7. Learned defense counsel has submitted that the accused have been falsely implicated in the present case. That star witnesses of prosecution i.e. complainant PW1 Chuna Ram, PW2 Kulwinder Singh and PW3 Jaggi Ram have not supported the case of the prosecution, hence accused are liable to be acquitted.

8. On the other hand, the learned APP could not controvert this contention in any manner.

9. I have heard learned APP for State as well as learned defence counsel and have perused the evidence on the judicial file carefully.

10. In the present case, the accused has been charge sheeted for having committed offences under sections 457, 380 of IPC. In order to prove its case, the prosecution has examined complainant PW1 Chuna Ram who has deposed that he does not know about the facts of the present case. That he never suffered any statement to the police. He also did not recognize the accused present in the court. He

was declared hostile at the request of learned APP for the State and was cross examined at length by the Ld. APP but nothing incriminating against the accused came out of his cross examination.

11. PW2 Kulwinder Singh and PW3 Jaggi Ram also deposed that they did not know about the facts of the present case. That they never suffered any statement to the police. They also did not recognize the accused present in the court. They were also declared hostile at the request of learned APP for the State and was cross examined at length by the Ld APP but nothing incriminating against the accused came out of their cross examination.

12. ASI Jaspal Singh (PW4) is the Investigating Officer of the present case. The said witness being merely an official witness, has not deposed anything based upon which the accused could be convicted in this case.

13. The star witnesses of the prosecution i.e PW1 Chuna

Ram, PW2 Kulwinder Singh and PW3 Jaggi Ram have turned hostile and have not supported the case of the prosecution. The other witness examined by the prosecution is only a formal witness who in any case could not have proved the identity of the accused at the spot of occurrence. In absence of any evidence against the accused, this Court is of the considered view that the complicity of accused in the present case has not been proved. In the circumstances of the case discussed above, the accused present in the court, are acquitted of the charges framed against them. The sureties of the accused are discharged. Case property, if any; be disposed of, as per rules after the expiry of period of filing appeal or revision and subject to the decision thereof. File be consigned to the record room.

Pronounced in open court
03.12.2019

Manjinder Singh
J.W.

Karanvir Singh,PCS
Judicial Magistrate Ist Class,
Amloh/UID-PB:0489

*I attest to the accuracy
and authenticity of this document.*

Manjinder Singh (J.W.)