

**In the Court of Ms. Manpreet Kaur,
Sub Divisional Judicial Magistrate, Ajnala**

CNR No. PBASA10006082018



Case No. CHI/135/2018

Presented on : 24-04-2018
Registered on : 24-04-2018
Decided on : 10-07-2023

State

Versus.

1. Satnam Singh son of Paramjit Singh, R/o Village Harsha Chhina, Uncha Qilla, P.S.Rajasansi.
2. Jobanpreet Singh son of Gurbhej Singh, **(Declared proclaimed offender vide order dated 03.11.2021).**

.....Accused

FIR No.12 of 01.02.2018.
U/s 379, 411 IPC
P.S. Rajasansi.

Present: Ld. APP for the State.
Accused Satnam Singh on bail with counsel
Sh.R.S.Chhina Advocate
Accused Jobanpreet Singh Proclaimed Offender.

JUDGMENT:-

The above named accused is sent up by the SHO, P.S. Rajasansi to face trial for the offence punishable U/s 379, 411 IPC.

2. The prosecution story, in brief, is that on 01.02.2018, ASI Bikramjit Singh alongwith other police officials were present at bus stand Kukarwala. Where, IO/ASI Bikramjit Singh received a secret information that Satnam Singh and Jobanpreet Singh are habitual of committing theft

of motor-cycle from different areas and today, they are coming on motor-cycle and they want to sell the same, if naqabandi be conducted, they can be apprehended on the spot. On the basis of information, IO/ASI Bikramjit Singh held a naqabandi and started checking the vehicle. After some time, the police party saw that two persons were coming on one motor-cycle, the police party signaled them to stop their motor-cycle and they were apprehended on the spot by the police party. On asking the driver of the motor-cycle, he disclosed his name Satnam Singh and pillion rider disclosed his name Jobanpreet Singh. Thereafter, ASI Bikramjit Singh asked both persons to produce the ownership, but both the abovesaid persons have failed to produce any documents about the ownership of the vehicle and they told that they had committed the said motor-cycle from Court Complex, Amritsar. IO/ASI Bikramjit Singh sent ruqa through PHG Amrik Singh to the police station for registration of the FIR. Accused persons were arrested. Thereafter, the case was got registered against the accused persons. Further investigation was conducted. Statements of witnesses were recorded. Accused persons were arrested and on completion of further investigation, the present challan against the accused persons were presented to the Court.

Thereafter, the accused namely Jobanpreet Singh did not appear in the court and he was declared proclaimed offender vide order dated 03.11.2021.

3. On presentation of challan, the complete copies of challan as required under law were supplied to the accused free of costs.

4. After hearing learned APP for State and learned defence counsel as well as perusing the documents on the record, a prima-facie case for offence punishable U/s 379, 411 of IPC was found to be made out against the accused Satnam Singh. Accordingly, charge there under has been framed against the accused to which, he pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution has examined PW-1 ASI Vijay Kumar, PW-2 RTO Harwinder Singh, PW-3 Ct.Satnam Singh and PW-4 ASI Bikramjit Singh. Thereafter, evidence of prosecution was closed by order of the court.

6. Statement of accused U/s 313 of Cr.P.C. has been recorded without oath wherein all the incriminating evidence appearing against the accused has been put to him in question answer form, but, he pleaded guilty. Accused opted not to lead any evidence in his defence.

7. I have heard learned APP for State as well as learned defence counsel and have also gone through the judicial file carefully.

8. In order to prove its case, the prosecution has examined PW1 ASI Vijay Kumar who deposed that on dated 01.02.2018, he was posted in police station Rajasansi as MHC. On the same day, IO/ASI Bikramjit Singh has produced the case property i.e. one Splendor Motorcycle without number bearing Chasis no.HA10EFBHE42560 and engine no.MHLHA10EZBHE51475 and same was deposited by him in judicial malkhana. **During the cross examination**, he deposed that he has not seen the case property and entry in this regard, has been entered in register no.19. He has not brought the register no.19 in the court and copy of the

same is not available in the judicial file. His statement was not recorded by the concerned IO. Orally, he cannot tell the engine number and chassis number of the motor-cycle.

Thereafter, the prosecution has examined PW2 Harwinder Singh RTO, Office Amritsar, who deposed that he has brought the official record through video conference pertaining to the motor-cycle Splendor Plus bearing registration no.PB02-BQ-7865 and the said registration number was registered in the name of Satnam Singh son of Ajit Singh, Plot No.95, Shri Punjab Avenue, Amritsar and copy of same is Ex.PW2/A and same is available in the judicial file. **During the cross examination,** he deposed that no complaint registered in any police station regarding the theft of the vehicle bearing registration no.PB02-BQ-7865 by the registered owner. The registered owner is not eye witness regarding the theft of the vehicle in question.

Further, the prosecution has examined PW3 Ct. Satnam Singh no.548 who deposed that on dated 01.02.2018, he was posted at P.S Rajasansi on that day he was present in the police party of ASI Bikramjit Singh and on that day police party was present at Adda Kukrawalan where informer came present before the IO and gave a secret information that Satnam Singh and Jobanpreet Singh are habitual of committing theft of motorcycle from different different sides and they are coming upon the motorcycle for selling the same and if naka bandi be held they can be apprehended and IO alongwith his police party held a naka and started checking the vehicle after some time and one motorcycle was coming upon which two persons were sitting and IO alongwith his

police party signaled them to stop and they apprehended by the police party and on asking driver of the said motorcycle and disclosed his name Satnam Singh and pillion rider disclosed his name Jobanpreet Singh and both the abovesaid accused had not produced any kind of documents relating to the ownership of the vehicle and they told that they had committed the theft of the said motorcycle from court complex of Amritsar and the abovesaid motorcycle was taken into police possession by the IO vide memo Ex.P1 and IO scribed the ruka Ex. P2 and send the same through PHG Amrik Singh on the basis of which FIR Ex. P3 was got registered by ASI Satinderpal Singh whose signature at point at which he identify and site plan Ex. P4 was prepared by the IO , IO arrested the accused Joban Singh vide memo Ex.P5, IO arrested the accused Satnam Singh vide memo Ex.P6 and prepared his personal search Ex. P7. Memos were witnessed by me and C Tarsem Singh. During investigation his statement was recorded. I identify the accused present in the court. **During the cross examination,** he deposed that he has not seen the case property today in the court. The secret information received at Adda Kukrawalan. The ruqa is made by the IO at the spot. On that day he alongwith ASI Bikramjit Singh, CT Tarsem Singh and PHG Amrik Singh. The ruqa was sent through PHG Amrik Singh. On that day nakabandi started at about 5.00 PM. No videography was recorded by the IO at the spot. The accused was arrested at the spot. No any money and mobile phone was recovered from the accused at the spot.

Thereafter, the prosecution has also examined PW4 ASI Bikramjit Singh, who deposed that on 01.02.2018, he was posted that P.S

Rajasansi on that day he alongwith his police party and on that day police party was present at Adda Kukrawalan where he received a secret information that Satnam Singh and Jobanpreet Singh are habitual of committing theft of motorcycle from different different sides and they are coming upon the motorcycle for selling the same and if nakabandi be held they can be apprehended and he alongwith his police party held a naka and started checking the vehicle after some time and one motorcycle was coming upon which two persons were sitting and he alongwith his police party signaled them to stop and they apprehended by the police party and on asking driver of the said motorcycle and disclosed his name Satnam Singh and pillion rider disclosed his name Jobanpreet Singh and both the abovesaid accused had not produced any kind of documents relating to the ownership of the vehicle and they told that they had committed the theft of the said motorcycle from court complex of Amritsar and the abovesaid motorcycle was taken into police possession by him vide memo Ex.P1 and he scribed the ruqa Ex. P2 and send the same through PHG Amrik Singh on the basis of which FIR Ex. P3 was got registered by ASI Satinderpal Singh whose signature he identify and site plan Ex. P4 was prepared by him. He arrested the accused Joban Singh vide memo Ex.P5, he arrested the accused Satnam Singh vide memo Ex.P6 and prepared his personal search Ex. P7. All memos were witnessed by CT Satnam Singh and Ct. Tarsem Singh. On dated 22.03.2018 Satnam Singh owner of the motorcycle was got identified his motorcycle and in this regard identification memo Ex. PW3/1 was prepared and on dated 05.02.2018, he moved an application Ex. PY to DTO Amritsar for the verification of the

Motorcycle and upon which their office gave their report Ex. PW2/A. During investigation he recorded the statement of witnesses. He identify the accused present in the court. **During the cross examination**, he deposed that the ruqa was sent through PHG Amrik Singh. The accused persons were arrested on the spot.

9. Ld. APP for the State has argued that by bringing on record PW-1 ASI Vijay Kumar, PW-2 RTO Harwinder Singh, PW-3 Ct.Satnam Singh and PW-4 ASI Bikramjit Singh and proving documentary evidence on record, prosecution has duly proved its case. It is further argued that case of prosecution has been established on record beyond reasonable shadow of doubt on the basis of evidence produced on the file. Therefore, accused must be convicted and sentenced with the maximum punishment as provided under the law.

10. To the contrary, it was argued by learned counsel for accused has argued that present case is falsely planted upon the accused. It was further argued that there are material contradictions in the testimony of PW's and as such, the evidence of prosecution is not reliable and therefore, by giving benefit of doubt, accused must be acquitted of the charge.

11. I have heard learned APP for State as well as learned defence counsel and have also gone through the judicial file carefully.

12. The case of the prosecution is that on 01.02.2018, accused persons have committed theft of motorcycle Hero Honda Splendor Plus bearing registration number PB02-BQ-7865 belonging to Satnam Singh son of Ajit Singh and accused were found in possession of stolen property.

Prosecution in order to prove its case have examined PW-1 ASI Vijay Kumar, PW-2 RTO Harwinder Singh, PW-3 C Satnam Singh and PW-4 ASI Bikramjit Singh. By examination of these witnesses, prosecution has proved that the ownership of the vehicle in question does not belong to accused persons rather it is Satnam Singh who is owner of the motorcycle in question. In order to prove the recovery effected from the accused, prosecution has examined investigating officer ASI Bikramjit Singh as PW4 and have further examined PW3 C Satnam Singh. In the instant case investigating officer have duly proved that on 01.02.2018, motorcycle in question was recovered from the accused persons and accused persons failed to produce any ownership document belonging to the motorcycle. It is apt to mention here that accused Satnam Singh in his statement u/S 313 of Cr.P.C. have admitted the entire evidence led by the prosecution and have admitted his guilt and have requested the court to take lenient view. In my view from the statement of accused Satnam Singh under section 313 of Cr.P.C. prosecution has duly proved that the motorcycle in question which was recovered from the possession of the accused persons was a stolen property and it does not belong to accused persons. Accused persons have failed to mention that how the case property came in their possession when they do not own it. By examination of investigating officer, prosecution has duly proved the ingredients of section 411 of IPC and it is duly proved that accused were found in possession of motorcycle in question. There are no material discrepancies in the deposition of these witnesses. Also, the defence has failed to shatter the credibility and veracity of these witnesses. However, with regard to ingredients of section

379 of IPC, I am of the view that prosecution has failed to prove the same because none of the witnesses had seen accused committing theft of the motorcycle in question. So, when no one had seen accused committing theft of the motorcycle, ingredients of section 379 IPC are not made out against accused persons.

13. However on the basis of above mentioned evidence and admissional statement of accused Satnam Singh under section 313 of Cr.P.C. prosecution has duly proved its case under section 411 of IPC and it is duly proved that accused persons were found in possession of motorcycle in question which was stolen property and it does not belong to accused persons. Accordingly, accused person namely Satnam Singh is present in the court, is held guilty for having committed an offence punishable U/s 411 IPC. **However, no ingredients of section 379 of IPC are proved and as such, the accused person namely Satnam Singh is acquitted under section 379 of IPC.** Let the convicts be taken into custody and they be heard on the quantum of sentence.

Pronounced in open court:

Dated: -10.07.2023.

*pawankumar, Stenographer Gr:II

(Manpreet Kaur),PCS,
Sub Divisional Judicial Magistrate,
Ajnala-UID-No.PB0367.