

PBJL030167502019



Presented on : 29-08-2019
Registered on : 29-08-2019
Decided on : 30-09-2021
Duration : 2 years, 1 months, 1 days

**IN THE COURT OF
Chief Judicial Magistrate
AT Jalandhar, Jalandhar
(Presided Over by Amit Kumar Garg)**

CHI/1342/2019

STATE OF PUNJAB

VERSUS

BOBBY SON OF SH. SALIM, RESIDENT OF HOUSE NO. 583/4,
MOHALLA, SURAJ GANJ, NEAR JYOTI CHOWK, JAL.

. . . . Accused

**FIR NO. 95 DATED 08.07.2017
UNDER SECTION: 457/380 OF IPC
POLICE STATION: Divn. No.4, Jalandhar**

Present: Sh. Yadwinder Singh, APP for the State.
Accused on bail with Shri Balraj Singh Kahlon, Advocate

JUDGMENT:

1. Above named accused was sent to Court by Station House Officer, P.S Division No.4, Jalandhar to face trial for commission of offence punishable under Sections 457/380 of I.P.C.
2. Brief facts of prosecution story are that F.I.R. of present case was registered on the statement of complainant Lakhvir Kaur Sister tutor, School of Nursing SBLS, Civil Hospital, Jalandhar who got recorded her statement with the police that on 07.07.2017 she was

having charge of Principal School of Nursing SBLS Civil Hospital, Jalandhar. On that day she went to her house after 04.00 PM. On 08.07.2017 when she came to the school, she saw that window of clerk room situated at their school was broken and saw that ₹ 2800/-, mobile phones, four lady suits of Richa who is computer operator of their school, pen drive and one cannon camera was stolen by some one during the intervening night of 07/08.07.2017. Site plan of place of recovery was prepared. Statements of witnesses were recorded. During investigation, Investigating Officer of the case received information that accused of case F.I.R. no.66 dated 04.06.2019, under Section 454/457/380/411 IPC 25 Arms Act PS Jalandhar Cantt. suffered disclosure statement that he has committed theft report in this case. In view of the same, accused was arrested in this case after obtaining his production warrants. After completion of formalities and an investigation challan was presented to the Court.

3. Copies of challan were supplied to accused free of costs. Finding a prima facie case against accused, he was charge sheeted under Section 457/380 of I.P.C., to which accused pleaded not guilty and claimed trial.
4. In order to prove it's case, prosecution examined Lakhvir Kaur complainant PW1 who deposed as per prosecution case and she proved her application Ex.PA and application moved to SHO and list of mobile numbers Ex.PB & Ex.PC.
5. ASI Sucha Singh PW2 deposed as per prosecution case being the Investigating Officer of this case and he also proved complaint

Ex.PA, police proceedings Ex.PW2/A, F.I.R. Ex.PW2/B, endorsement on F.I.R. Ex.PW2/C, documents Ex.PB & Ex.PC, rough site plan Ex.PW2/D, memo of arrest of accused Ex.PW2/E and his disclosure statement Ex.PW2.

6. C Amarjit PW3 also proved memos Ex.PW2/E and Ex.PW2/F being witnesses thereof. Thereafter, prosecution evidence was closed.
7. After closure of prosecution evidence, statement of the accused u/s 313 Cr.P.C was recorded wherein all the incriminating circumstances appearing in the prosecution evidence were put to him which he denied and pleaded his false implication. Accused opted not to lead evidence in defence.
8. Ld. APP argued that prosecution has duly proved its case. He relied upon statement of PW1 who proved the theft committed in their institution. He also relied upon the statements of PW2 and PW3, the Investigating Officer and witness of memo of arrest and disclosure statement of accused vide which accused confessed his guilt regarding commission of theft in the said school. So, he prayed for maximum punishment for the accused.
9. On the other hand, ld. defence counsel argued that prosecution has miserably failed to prove its case beyond reasonable shadow of doubt as they failed to examine material witnesses. He further contended that there is not an iota of evidence against the present accused to connect him with the offence. He has been falsely implicated in the present case. So, he prayed that accused may

kindly be acquitted from the charges framed against him.

10. I have heard the rival contentions of learned APP and learned defence counsel and have carefully gone through the file. The following point is found for determination in this case:-

- 1. Whether the above named accused committed lurking house tress pass by night by entering the school of complainant which was being used as human dwelling?*
- 2. Whether the above named accused committed theft of currency notes and other articles belonging to school of complainant?*

Points for Determination No. 1 & 2:

12. Having due regard to the contentions of learned APP for the State and learned defence counsel, this Court is of the view that if we see statement of complainant PW1 Lakhvir Kaur then she deposed about the theft committed in their school of nursing SBLS, Civil Hospital, Jalandhar. She moved application before SHO Ex.PA but neither in examination-in-chief nor in cross-examination she has deposed a single word against the present accused and she admitted that she has not seen the alleged occurrence and also not identified the alleged stolen articles in the police station and even she does not know whether stolen articles were ever recovered by the police or not and she has never visited the police station after filing the complaint Ex.PA. She further admitted that she has not seen the case property in the Court and she had never given any bill regarding ownership of stolen articles to the police. If we see the examination-in-chief of Investigating Officer ASI Sucha Singh

PW1 then he mainly deposed regarding the arrest of accused who was already apprehended in another F.I.R. no. 66 dated 04.06.2019 registered at PS Jalandhar Cantt. and he also proved the disclosure statement. But in cross-examination he categorically admitted that no recovery was effected from the accused in this case and even complainant did not mention the company of mobile phone and camera that had been stolen. So, disclosure statement without any recovery has no value in the eyes of law. PW3 Ct. Amarjit also admitted on the same lines as per investigating officer ASI Sucha Singh PW2. So, this Court is of the view that there is not an iota of evidence against the present accused to connect him with the theft. The prosecution otherwise also failed to examine the material witnesses cited in the list and due to the fact that they had otherwise nothing to prove against the present accused. The recovery allegedly shown in another F.I.R. no. 66 dated 04.06.2019 under Section 420, 465, 467, 468, 471, PS Jalandhar Cantt. has also not been proved in the present case. So, it is held that the prosecution has miserably failed to prove its case beyond the reasonable shadow of doubt and by giving benefit of doubt, accused is ordered to be acquitted of the charges framed against him. His bail bonds and surety bonds stand discharged. Case property be disposed off as per rules after awaiting result of appeal/revision if any. File, complete in all respect, be consigned to the Record Room.

Pronounced in open Court.
On 30.09.2021.

(Amit Kumar Garg) PCS
Chief Judicial Magistrate,
Jalandhar/UID No.PB0260

krishan