

**In the Court of Ravneet Singh,
Judicial Magistrate, 1st Class, Mansa
(UID No.:PB0361)**

CNR No. PBMOB10004662019

Case No. CHI/133/2023



Presented on : 29.03.2023

Registered on : 28.03.2023

Decided on : 20.07.2024

State of Punjab

Versus

1. Sandeep Singh son of Mahinder Singh, son of Bishan Singh resident of village Ladda, District Sangrur.
2. Kamalpreet Kaur @ Kamaljit Kaur wife of Sandeep Singh, son of Mahinder Singh, resident of village Ladda, District Sangrur.

.....Accused.

FIR No.189 dated 06.12.2021,
Under Sections 454, 380, 411 IPC,
Police Station Bhikhi.

Present:- Learned APP for the State.
Accused Sandeep Singh and Kamalpreet Kaur @ Kamaljit Kaur
on bail with Shri Gora Singh Thind, Advocate.

JUDGMENT:

1. The above-named accused persons have been sent by the officials of Police Station Bhikhi to face trial for the offence punishable under Sections 454, 380, 411 of Indian Penal Code.

2. The brief story of prosecution is that on 06.12.2021, ASI Major Singh along-with other police officials was patrolling in the area of Bhikhi and when the police party reached near T-point of Bhikhi, then Malkit Singh son of Sarabjit Singh met him and suffered a statement that on

05.12.2021 he had gone to attend marriage in his relatives at village Aklian and the function was at BMG marriage palace Bhikhi and the car on which he had gone to attend marriage was in the name of his father Sarabjit Singh. At about 01:00 PM he parked his car in front of the marriage palace and after locking the same he had gone inside the palace and when at about 04:00 PM he came outside the marriage palace then he saw that his car was not there and it was stolen by some unknown persons. That he was making efforts himself to trace out the car but he failed. This statement of the complainant was attested by ASI Major Singh and after finding an offence under Sections 454, 380 IPC, PHG Nachattar Singh was sent with the ruqa for the registration of an FIR. Thereafter, during investigation ASI Baljinder Singh investigating officer had contacted IO Darshan Singh of PS Dirba, who handed over the Zimni of FIR No.248 dated 02.12.2021 under Sections 379, 411, 483 IPC, to ASI Baljinder Singh in which accused Sandeep Singh along-with his wife Karamjit Kaur and his son had admitted that they had stolen one Breeza car from BMG marriage palace Bhikhi. Thereafter, both the accused persons were nominated in the present case and the son of the accused persons was declared as juvenile. After completion of the investigation, challan under Sections 454, 380 IPC was presented against accused persons namely Sandeep Singh and Kamalpreet Kaur.

3. On presentation of final report, copies of documents as required under Section 207 of the Code of Criminal Procedure were supplied to the accused persons, free of costs.

4. From the report under Section 173 of the Code of Criminal Procedure and documents annexed therewith, a *prima facie* case punishable

under Sections 454, 380 IPC was found to be made out against the accused persons and charge was framed against them accordingly, to which they pleaded not guilty and claimed trial.

5. In order to prove its case prosecution examined following witnesses and proved documentary evidence:

ORAL EVIDENCE LED BY THE PROSECUTION:

PW-1	Malkit Singh, complainant
PW-2	SI Baljinder Singh

DOCUMENTARY EVIDENCE LED BY THE PROSECUTION:

Ex.PW2/A	Copy of DDR
Ex.PW2/B	Recovery memo
Ex.PW2/C	Application
Ex.PW2/D	Application of arrest memo
Ex-PW2/E	Arrest memo
Ex.PW2/F	Personal search memo
Ex-PW2/G	Application
Ex-PW2/H	Application of arrest
Ex-PW2/I	Personal search
Ex-PW2/J	Recovery memo
MO1 & MO2	CDs memo

Thereafter, Learned APP for the State closed the evidence on behalf of prosecution by making separate statement on 19.07.2024.

6. On closure of prosecution evidence, statements of accused persons under Section 313 Cr.P.C. were recorded in which incriminating evidence appearing against accused persons on record was put to them, who

denied the same and pleaded that they are innocent and they have been falsely implicated in this case. However, no evidence was led by the accused in their defence. A separate statement to this effect was recorded.

7. The Learned APP for the State has argued that the witnesses examined by the prosecution have been able to establish the guilt of accused beyond the shadow of reasonable doubt and it has been able to establish that on 05.12.2021, accused persons had stolen the car of the complainant from the marriage palace of Bhikhi. He has further argued that although the complainant has not supported the case of the prosecution in the Court, however, in his statement recorded before the police he has implicated the accused persons which show that he has resiled from his earlier statement and turned hostile. Accordingly, prayer is made that the accused persons should be held guilty and convicted of the offence for which they have been charged.

8. On the contrary, learned counsel for the accused persons submitted that the complainant himself has turned hostile and refused to identify the accused persons present in the Court, therefore, the prosecution has failed to establish the identity of the accused persons. He further submitted that the prosecution has also failed to connect the accused persons with the alleged incident and has failed to establish the guilt of the accused persons and as such no case is made out against the accused persons and prayed for the acquittal of the accused persons.

9. From the arguments raised by both the sides as well as from the scrutiny of the material on record, the following point of determination emerges for the decision of the present case:-

Whether on 05.12.2021, accused persons had committed lurking house tress pass by entering into the building of BMG marriage palace in order to committ theft and had stolen car from the marraige palace?

10. After having gone through the case file and assisted by the assistance provided by the Learned APP for the State and the Learned defence counsel, I have found that it is alleged that on 05.12.2021, accused persons had committed lurking house tress pass by entering into the building of BMG marriage palace in order to committ theft and had stolen car from the marraige palace. However, a careful perusal of the evidence on record leads to the conclusion that the prosecution has failed to prove the charges against the accused persons. The perusal of the record reveals that star witness of this case namely complainant PW-1 Malkit Singh, did not support the case of the prosecution. In the present case, prosecution based its entire case on the testimony of complainant PW-1 Malkit Singh who during his testimony did not support the case of the prosecution and did not identify the accused persons present in the Court. PW-1 Malkit Singh complainant stated to the effect that his vehicle was stolen by unknown persons and his statement was not recorded by the police and his signatures were taken on blank papers. He did not identify the accused persons present in the court. Thereafter, on the request of learned APP for the State this witness was declared to be suppressing the truth and APP was allowed to put the leading questions to him. During the lengthy cross-examination by APP for the state, prosecution has failed to bring out any thing favourable to prosecution. He denied the suggestions put to him by APP for the State. He deposed to the

effect that his signatures were taken on blank papers. PW-2 SI Baljinder Singh has only proved the above mentioned documents prepared during investigation. Since, the complainant PW-1 Malkit Singh has failed to identify the accused persons present in the Court and failed to support the case of the prosecution, therefore the prosecution has failed to prove any charges against the accused persons.

11. As it is cardinal principle of criminal jurisprudence that the criminal case should be proved by the prosecution beyond reasonable doubt. In view of the discussions made herein above, I am of the view that the prosecution has failed miserably to prove charges against the accused persons. So, the accused persons namely Sandeep Singh and Kamalpreet Kaur @ Kamaljit Kaur are hereby acquitted of the charges framed against them. On expiry of period prescribed for filing appeal or revision, as the case may be and outcome thereof, if any, the surety bonds shall stand discharged. Case property be disposed of as per rules. File be consigned to the Record Room after due compliance.

Pronounced in open Court:-
20.07.2024
(Meenu, STG-III)

(Ravneet Singh, PCS),
Judicial Magistrate, 1st Class
Mansa-UID:PB0361.