

**In the Court of Charanpreet Kaur,
Judicial Magistrate First Class, Ajnala**

CNR No. PBASA10009562019



Case No. CHI/124/2019

Presented on 01-08-2019
Registered on 01-08-2019
Decided on 02-11-2022

State Versus	Karanbir Singh @ Vicky son of Kulwant Singh, resident of Gopal Nagar, PS Ajanla.
-----------------	---

....Accused

FIR no. 17 dated 16.02.2018
u/s 379, 411, 472, 201 IPC
P.S. Rajasansi

Present: Ld. APP for the State.
Accused on bail with Ld. Sh. MS Nijjar, Advocate.

JUDGMENT

1. The above named accused is set up by the Station House Officer, to face trial in FIR no. 17 dated 16.02.2018, u/s 379, 411, 472, 201 IPC, PS Rajasansi.
2. The brief facts of the prosecution case are that on 16.02.2018 ASI Bikramjit Singh along with other police officials was on patrolling duty and when the police party was present at main chowk bus stand Kukrawala then he received a secret information that the accused Karanbir Singh @ Vicky son of Kulwant Singh is a habitual thief and he used to steal motor-cycles and sell the same by fabricating the number plates of the motor-cycles and if check-post be held then the accused could be apprehended. Upon this, ASI Bikramjit Singh along with other police officials held a check-post and after some, they saw a young man coming on a motorcycle from Ajnala. On the basis of suspicion, the

accused was stopped by the police party and on interrogation, he disclosed his name as Karanbir Singh @ Vicky son of Kulwant Singh. On demanding the documents relating to the said motorcycle, the accused was not able to produce the same and thereafter, the said motorcycle was taken into police possession. Thereafter, the accused was arrested. FIR was registered against the accused. Investigation was commenced. Site plan was prepared. Statement of witnesses were recorded under Section 161 Cr.P.C. After completion of investigation, the challan was presented against the accused under Section 379, 411, 472, 201 IPC.

3. On appearance of the accused in the Court, the copies of the challan along with other annexed documents were supplied to him free of cost under Section-207 Cr.P.C. Statement of this effect was also recorded.

4. Thereafter, finding a prima facie case under Section 379, 411, 472, 201 IPC against the accused, charge was framed to which the accused pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution has examined **PW1 Vinod Jain**, **PW2 IO ASI Bikramjit Singh**, **PW3** recovery witness **Ct. Satnam Singh** (wrongly written as PW2), **PW4** malkhana in-charge **ASI Vijay Kumar** (wrongly written as PW3), **PW5 ASI Jasbir Singh** (wrongly written as PW2) and proved on record ruqa **Ex. P1**, FIR **Ex. P2**, recovery memo **Ex. P3**, site plan **Ex. P4**, arrest memo **Ex. P5**, personal search memo **Ex. P6**, bill of the motor-cycle **Mark-A** taken into police possession vide memo again exhibited as **Ex. P2**, identification memo again exhibited as **Ex. P1** and case property **Ex. MO1**.

6. Thereafter, the prosecution evidence was closed by the Ld. APP for the State vide his recorded statement.

7. Thereafter, the statement of the accused was recorded under Section 313 Cr.P.C. in which all the incriminating evidence appearing on the record was put to him. However, the accused denied all the allegations and pleaded innocence and false implication in the present case.

8. In defence, the accused did not lead any evidence and the defence evidence was closed vide recorded statement by the accused.

9. The Ld. APP for the State has argued that the prosecution witnesses have proved the entire version of the prosecution case which is unrebutted by the defence. So, it is prayed that the accused be convicted for the said offence.

10. On the other hand, the Ld Counsel for the accused has argued that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt and prayed for the acquittal of the accused.

11. I have heard the arguments of the Ld. APP for the State and the Ld. Defence Counsel and have gone through the case file minutely and carefully with the able assistance of both the Counsels.

12. After considering the rival submissions of the Ld. APP and the Ld. Defence Counsel, the Court finds that the points of determination involved in this case are that

- (i) “Whether on 16.02.2018 in the area of PS Rajasansi, the accused committed theft of a motorcycle and thereby committed an offence under Section 379 IPC? ”
- (ii) “Whether on the same date, time and place the accused counterfeited the number plate of the alleged

motor-cycle and thereby committed an offence under Section 472 IPC?”

- (iii) “Whether on the same date, time and place the accused knowing or having reason to believe that the alleged offences have been committed caused the RC of the alleged motorcycle to disappear with the intention to screen him from the legal punishment and thereby committed an offence under Section 201 IPC?”
- (iv) “Whether on the same date, time and place the accused dishonestly retained the said stolen motorcycle in his possession which he knew or had reason to believe to be the stolen property?”

Point of determination no. 1:-

13. Regarding the point of determination, the onus to prove this point of determination was upon the prosecution. However, the prosecution has not brought on record any evidence which can support the averment that the accused has committed the theft of the alleged motorcycle. No eye-witness has appeared before the Court who can support the averment of the prosecution that the alleged theft is committed by the accused. There is neither any primary nor secondary evidence on the record regarding the same. Therefore, so far as the charge under Section 379 IPC is concerned, the prosecution has failed to discharge the onus beyond reasonable doubt.

Point of determination no. 2:-

14. The onus to prove the second point of determination was upon the prosecution. The prosecution has alleged that the accused has

fabricated the number plate of the alleged motor-cycle. It is further alleged that the number plate affixed on the alleged motor-cycle bearing registration no. PB-02-CA-8844 is a fabricated one which was affixed on the motor-cycle by the accused after removing the original number plate. However, the prosecution has failed to adduce any oral or documentary proof on the judicial file from which, it can be inferred that the number plate bearing registration no. PB-02-CA-8844 is a fabricated number plate and not the original one. In the absence of any proof regarding the original number plate of the alleged vehicle, it can not be suo moto assumed that the number plate affixed on the alleged vehicle is a fabricated one and not the original number plate. Adding to it, there is neither any oral nor documentary proof on the judicial file showing the original number plate of the alleged vehicle. This destroys the assertion of the prosecution that the alleged vehicle bears a fabricated number plate which was affixed by the accused. Therefore, the prosecution has failed to prove beyond reasonable doubt that the accused has committed the offence under Section 472 IPC.

Point of determination no. 3:-

15. Regarding this point of determination, the onus to prove was upon the prosecution. The prosecution has to prove beyond reasonable doubt that the accused knowingly and intentionally concealed or destroyed the RC of the alleged vehicle and committed an offence under Section 201 IPC. However, the prosecution has miserably failed to do so. There is nothing on record from which it can be inferred that the accused was ever in possession of the RC of the alleged vehicle and in order to conceal the commission of the alleged offence, he had destroyed or concealed the same. It is pertinent to mention here that the alleged RC was neither recovered by the police at the time of investigation nor the prosecution had proved that the RC was in the possession of the accused at any point of time. In the absence of any proof, the Court cannot suo

moto assume that the accused was ever in the possession of the alleged RC and in order to conceal the commission of the alleged offence, he had concealed or destroyed the same. Therefore, the prosecution has failed to prove that the accused has committed an offence under Section 201 IPC.

Point of determination no. 4:-

16. Regarding the point of determination, the onus to prove this point was upon the prosecution. In order to discharge the burden of proof, the prosecution has examined **PW2 ASI Bikramjit Singh** who has deposed on the lines of prosecution and fully corroborated the version of the prosecution. He has proved on record ruqa **Ex. P1**, FIR **Ex. P2**, recovery memo **Ex. P3**, site plan **Ex. P4**, arrest memo **Ex. P5**, personal search memo **Ex. P6** and case property **Ex. MO1**

PW1 Vinod Jain who is owner of the motor-cycle appeared in the witness-box and supported the version of the prosecution. He also proved on record bill of the motor-cycle **Mark-A** taken into police possession vide memo **Ex. P2**, identification memo **Ex. P1**.

PW3 Ct. Satnam Singh (wrongly written as PW2) who was the member of police party has also supported the case of prosecution and reproduced the verbatim version of prosecution.

PW4 ASI Vijay Kumar (wrongly written as PW3) has deposed that on 16.02.2018, he was posted at PS Rajasansi as malkhana incharge and the case property was handed over to him and after assuring the intactness of the same, he deposited the case property in the malkhana.

PW5 ASI Jasbir Singh (wrongly written as PW2) who was present in the police party of IO appeared next in the witness-box and supported the version of the prosecution.

In order to prove the allegations against the accused, the prosecution has examined five witnesses who have fully supported the case of prosecution. All the witnesses were cross-examined at length by the Ld. Defence Counsel but nothing in their cross-examination has come forth to discard their testimony. Rather all these witnesses have stood firm in their test of cross-examination.

17. **PW2 ASI Bikramjit Singh** has proved on record recovery memo **Ex. P3**. The perusal of the recovery memo reveals that the alleged motorcycle was recovered from the accused. Moreover, the accused has himself admitted the authenticity of **Ex. P3** in his statement recorded under Section 294 Cr.P.C. Therefore, the recovery of the alleged motorcycle is proved from the possession of the accused otherwise also the accused has neither claimed himself to be owner of the allegedly recovered motorcycle nor has come into the possession of the said motorcycle vide any legitimate manner. As per the *Section 114 of the Indian Evidence Act, 1872*, “*the Court may presume that a person who is in possession of stolen goods soon after, the theft is either the thief or has received the goods knowing them to be stolen, unless they can account for their possession.*” In the present case, the accused has failed to provide any explanation regarding the possession of allegedly recovered motorcycle.

In **Mukesh Kumar Vs. State of UT Chandigarh, 2002 (1) RCR (Crl.)** the **Hon’ble Punjab and Haryana High Court** observed that if the accused is not able to explain how the stolen article came into his possession, the only inference is either he had committed the offence or he had received it as stolen property. In case at hand, it is also to be noted that accused had not claimed the alleged motor-cycle as his own. So there could be no other inference but that he received the stolen motorcycle.

So, it can be safely concluded that the accused has dishonestly retained the stolen property knowing the same to be the stolen property and committed the offence under **Section 411 of the Indian Penal Code**.

On the careful examination and appreciation of the evidence on record, this Court is of the considered view that the prosecution has proved this case beyond reasonable doubt against the accused. All the witnesses were cross-examined by the Ld. Defence Counsel but nothing has come out to impeach the credibility of their testimony. A careful reading of the entire prosecution evidence led on the record drives this Court to the conclusion that there are sufficient grounds to convict the accused under Section 411 of IPC as the prosecution has been able to bring home the guilt of the accused.

17. In the view of above discussion, the prosecution has failed to prove the charge under Section 379, 472 and 201 of IPC. However, the charge under Section 411 IPC is proved against the accused beyond reasonable doubt. Hence, the accused is acquitted from the charge under Section 379, 411, 201 IPC and is convicted under Section 411 IPC. The accused is on bail in this case, he be taken into the custody. Let, the accused be heard on the Quantum of Sentence.

Pronounced in open Court:

02.11.2022

**(Charanpreet Kaur),
Judicial Magistrate-Ist Class,
Ajnala.UID-PB0662.**

Typed by:-
Narender Kumar, Stenographer-Gr-II.