

PBBT030011672021



Presented on : 15-02-2021
Registered on : 15-02-2021
Decided on : 29-03-2025
Duration : 4 years, 1 months, 14 days

**In the Court of Simran Singh, PCS,
Judicial Magistrate Ist Class, Bathinda**

FIR No: 86 Dated: 28.05.2020
U/S:381 IPC
PS: Civil Line, Bathinda

CIS No. : CHI-127-2021
CNR No. : PBBT03001167-2021
Date of Institution: 15.02.2021
Date of Decision: 29.03.2025

S T A T E

Versus

Satpal Singh son of Mewa Singh, resident of Balahar Mehma.

.....Accused.

Present: Sh. HS Kahlon, APP for the State assisted by Counsel for
Complainant
Accused on bail with Counsel Sh. SS Jeeda, Advocate.

JUDGMENT

1. The above named accused has been forwarded to this Court by the Officer Incharge of Police Station Civil Line, Bathinda to face trial under section 381 of Indian Penal Code, 1860 (IPC).

2. In nutshell, facts of the prosecution case are that on

28.05.2020 ASI Manjit Singh alongwith police party was present near Dadi Poti Park, where complainant Sandeep Kumar came and got recorded his statement to the effect that he is having shop in the name of Singla Electronics at Power House Road, Bathinda and one Satpal Ram @ Satti worked as servant on his shop @ Rs.7000/- per month as salary. Complainant used to keep all his earnings in the drawer of the counter of his shop and his servant Satpal knows about it. On 14.02.2020 complainant kept Rs. 1,50,000/- in cash, 2 gold lockets and 2 gold chains weighing 14 grams in the drawer of the counter of his shop and complainant kept on checking the same after 5-7 days. On 25.03.2020, complainant checked drawer of his counter and found that Rs.1,18,000/- in cash, 2 gold lockets and 2 gold chains were missing and he kept on making inquiry and he came to know that Satpal Singh @ Satti has committed said theft and total value of said articles and cash was Rs.1,50,000/-. So he prayed for taking action.

3. On the basis of said statement, commission of offence punishable under section 381 IPC was found to have been made out, accordingly, ruqa was sent and FIR was registered against the accused. Place of occurrence was visited. Site plan was prepared. Bills of gold ornaments were produced by complainant and same were taken into possession. Statements of witnesses were recorded. Accused was joined in investigation and was released on bail as per order of the Hon'ble High Court. After completion of investigation, challan was presented in the Court against the accused.

4. Upon appearance, copies of challan and documents appended

with it were supplied to accused free of cost as provided u/s 207 Cr.PC and his statement in this regard was also recorded.

5. After hearing learned Counsel for accused as well as Ld. APP for state and after perusing the Police Report and documents appended with it, a prima facie case under section 381 IPC was made out against accused and accordingly, accused was charge sheeted. The charge was then read over and explained to accused in simple language, to which accused pleaded not guilty and claimed trial.

6. In order to bring home guilt of accused, prosecution examined Tejvir Singh from Mittu Jewellers as PW-1, HC Jarnail Singh as PW-2, Sandeep Kumar, complainant as PW-3 and ASI Manjit Singh, investigating officer as PW-4. Prosecution also tried to prove on record original bills of gold ornaments as Ex.PW-1/A and Ex.PW-1/B, DDR no.20/17.07.2022 of PS Civil Lines, Bathinda as Ex.PW-2/A, statement of complainant as Ex.PW-3/A, rough site plan as Ex.PW-3/B, memo of taking into possession bills of gold ornaments as Ex.PW-3/C, police proceedings as Ex.PW-4/A, FIR as Ex.PW-4/B, endorsement of FIR on ruqa as Ex.PW-4/C, rough site plan as Ex.PW-4/D, arrest-cum-intimation memo of accused as Ex.PW-4/E. Thereafter learned APP for the State closed the prosecution evidence vide his separate statement.

7. On closure of prosecution evidence, accused was examined u/s 313 Criminal Procedure Code, in which all incriminating circumstances appearing in the statements of prosecution witnesses were put to him, so as to apprise him of incriminating evidence, but accused had refuted all the circumstances by pleading false implication and

innocence. Accused did not led any defence evidence and he closed the same by suffering a statement in this regard.

8. I have heard the rival contentions of learned APP for the state as well as learned counsel for accused and have perused the case file very carefully and minutely with their able assistance.

9. Learned APP for the State while referring to the statements of prosecution witnesses has forcefully argued that prosecution has successfully proved the guilt of accused by leading cogent and convincing evidence. He contended that accused was working as servant on the shop of complainant and he committed theft of Rs.1,18,000/- and 2 gold lockets and 2 gold chains from the said shop. He further contended that prosecution has successfully proved the guilt of accused beyond all shadows of doubts. Thus, he prayed for convicting the accused for the offences for which he has been charge sheeted.

10. On the other hand, learned Counsel for accused forcefully argued that accused has been falsely implicated in this case and he has not committed any offence. He further contended that even no recovery was effected from accused, nor he has committed the alleged theft and a false case has been got registered against the accused by complainant. He further contended that there is an unexplained delay of about two months in lodging this FIR by complainant which has also falsified the case of prosecution. So, he contended that prosecution has failed to prove the guilt of accused beyond all shadows of doubts. Thus he prayed for acquittal of accused.

11. I have given thoughtful consideration to these submissions

and in order to appreciate the same, have gone through the record of the case carefully.

12. It is general principle of criminal jurisprudence that it is the duty of prosecution to prove the guilt of accused beyond all reasonable doubts. Prosecution has to stand on its own legs and it cannot take advantage of weakness of defence. In order to bring home guilt of accused prosecution examined as many as four witnesses. Lets see whether prosecution has been successful in bringing home guilt of accused beyond all reasonable doubts.

13. Accused in the instant case is charge sheeted for the commission of offence punishable under section 381 of IPC. Allegations against the accused are that he committed theft of Rs.1,18,000/- and 2 gold lockets and chains from the shop of complainant and in order to bring home guilt of accused prosecution examined as many as four witnesses, but perusal of testimony of PWs clearly shows that prosecution has miserably failed to prove the guilt of accused beyond all shadows of doubts. In the instant case, FIR has been registered on the basis of statement Ex. PW3/A made by complainant to police. wherein he had stated that he is running a shop in the name and style Singla Electronics and he has employed Satpal Singh @ Satti as servant on the said shop at the salary of Rs.7000/- per month. complainant also mentioned therein that he used to keep all his earnings in the drawer of the counter of his shop and his servant Satpal knows about it. On 14.02.2020 complainant kept Rs. 1,50,000/- in cash, 2 gold lockets and 2 gold chains weighing 14 grams in the drawer of the counter of his shop and he kept on checking

the same after 5-7 days. On 25.03.2020, complainant checked drawer of his counter and found that Rs.1,18,000/- in cash, 2 gold lockets and 2 gold chains were missing and he kept on making inquiry and he came to know that Satpal Singh @ Satti has committed said theft. So, perusal of said statement Ex.PW-3/A made by complainant to police clearly goes on to prove that complainant had not seen the accused while committing the alleged theft. Furthermore, said statement is also silent about the fact that from whom complainant came to know that said theft was committed by accused. Thus complainant could not explain that from where he came to know that alleged theft was committed by accused facing the trial. Furthermore, even while deposing as PW-3 in the Court, complainant could not explain even in his examination-in-chief that from where he came to know that his servant Satpal Singh @ Satti had committed the alleged theft in his shop, rather, his entire examination-in-chief is silent about the same. Moreover, perusal of examination-in-chief of complainant PW-3 also clearly goes on to prove that he had not seen the alleged occurrence or any one including accused while committing the said occurrence. Further, cross-examination of complainant has also given fatal blow to the case of prosecution. He in his cross-examination categorically stated that he has not seen accused Satpal Ram @ Satti while committing theft. He was even fair enough to state that accused has not committed theft in his shop. He further stated that he was having suspicion on accused regarding the theft, but he cannot say with surety that accused has committed the said theft. He also stated that no recovery has been effected from accused. He further stated that from 14.02.2020 to

25.03.2020 there was lockdown and no one had gone to his shop during this period and due to Covid lockdown shop was locked and it was not opened and accused had not come to his shop from 14.02.2020 till date. He further stated that there is Lab in front of his shop where cameras are installed and the said cameras also cover the shop of complainant and accused was not seen during that period in the said Camera footage. He further stated that two other persons namely Lakhwinder Singh and Prem Dass also worked in his shop during said period and they used to come on shop. He also admitted that stolen articles have not been recovered from any one. He also admitted that documents Ex.PW-1/A and Ex.PW-1/B are merely estimates and they are not bills. So, testimony of complainant PW-3 has made it apparently clear that complainant had not seen the accused while committing the alleged theft and he was merely having suspicion on accused regarding the alleged theft and he clearly stated in his cross-examination that accused has not committed theft in his shop. Thus testimony of complainant PW-3 has clearly proved that accused facing the trial had not committed alleged theft in the shop of complainant. Even shop of complainant remained closed during the period from 14.02.2020 to 25.03.2020 during Covid lock down and admittedly accused never came on the shop of complainant during that period. So in such circumstances, when admittedly accused never went to the shop of complainant during that period when the alleged theft was committed, then question of committing the alleged theft by accused does not arise at all. Moreover, the star witness of the prosecution i.e. complainant Sandeep Kumar PW3 has also clearly stated that accused has not

committed theft in his shop. Thus, commission of theft in question by accused facing the trial in the shop of complainant is not at all proved.

14. It is further pertinent to mention here that other witnesses examined by prosecution namely HC Jarnail Singh and ASI Manjit Singh, investigating officer are merely official witnesses and they have also not seen the alleged occurrence, so they also could not prove the commission of theft in question by accused facing the trial. Moreover, nothing was recovered in this case from accused facing the trial as clear from the testimony investigating officer ASI Manjit Singh PW-4 who has clearly admitted in his cross-examination that nothing was recovered from the accused facing the trial. Investigating officer ASI Manjit Singh further admitted in his cross-examination that no evidence has come on record regarding the commission of theft in question by accused facing the trial nor any proof came on record during his investigation regarding commission of theft in question by accused facing the trial. He even stated that he had not collected CCTV footage of Cameras installed near the shop in question nor complainant produced any CCTV footage. He also stated that accused has been nominated in this case only on the statement of complainant on the basis of suspicious and during investigation no evidence is found against accused. So, from the cross-examination of investigating officer also, it is duly proved that even during investigation no evidence has been found against accused to prove that theft in question was committed by accused facing the trial. Moreover, no allegedly stolen property was recovered from the accused in this case to connect him with the alleged occurrence. So, in this way prosecution has miserably failed to

prove the commission of theft in question by accused beyond all shadows of doubts.

15. It is further pertinent to mention here that in the instant case as per version of prosecution, complainant came to know about the alleged theft on 25.03.2020, but he made statement to the police on 28.05.2020 i.e. after about two months of alleged occurrence and none of the prosecution witness could explain said delay of about 2 months in making statement by complainant to the police with regard to said occurrence. So said unexplained delay of about 2 months in lodging this FIR by complainant has also made the case of prosecution highly doubtful.

16. So, in view of above discussion, it is clear that no evidence has come on record against the accused to prove the commission of theft in question by him from the shop of complainant, rather, complainant PW-3 has clearly stated in his cross-examination that accused has not committed theft in his shop. Hence prosecution has failed to connect the accused with the alleged occurrence and has thus failed to prove the guilt of accused beyond all shadows of doubts for the offence for which he is charge-sheeted, so he deserves to be acquitted from the charge framed against him.

17. So as a sequel to my above discussion, prosecution has miserably failed to prove the guilt of accused beyond all shadows of doubts by leading cogent and convincing evidence. Accordingly, accused Satpal Singh @ Satti is hereby acquitted from the charge framed against him under section 381 of IPC by giving him benefit of doubt. His bail

bonds and surety bonds stand discharged. Case property, if any, be dealt with as per rules after expiry of period of limitation for filing appeal or revision, or subject to the result of appeal or revision, if any. File be consigned to the Record Room, Bathinda.

Pronounced:
29.03.2025

Meena, Stenographer-II

(Simran Singh)PCS
Judicial Magistrate Ist Class,
Bathinda/ UID NO. PB0372