

In the Court of Ms. Sakshi Arora,
Judicial Magistrate Ist Class, Bathinda

CNR No. PBBT030007212024



Case No. CHI/129/2024

Presented on : 06-01-2024
Registered on : 06-01-2024
Decided on : 06-06-2026

Case FIR NO. 155 DATED 03.12.2021
POLICE STATION: Nahianwala
UNDER SECTION: 379, 427 & 34 IPC

Complainant	State of Punjab
Represented by	Sh. Amit Goyal (APP for the state)
Accused	1. Kala Singh s/o Harbans Singh r/o Giddar 2. Jassa Singh s/o Billu Singh 3. Davinderjit Singh @ Rubi s/o Gurmail Singh r/o Khiyaliwala 4. Makhan Singh s/o Amar Singh 5. Manpreet Singh @ Mani s/o Makhan Singh r/o Gali no. 01, Back Side of Thermal Colony, Guru Nanak Basti, Bathinda.
Represented by	Sh. SPS Khokhar, Advocate. Sh. Ajitinder Singh Chahal, Advocate. Sh. K S Jeeda, Advocate.

Date of offence	03.12.2021
Date of FIR	03.12.2021
Date of chargesheet	20.03.2025
Date of framing of charges	20.03.2025
Date of commencement of evidence	05.12.2025
Date on which judgment is reserved	NA
Date of the judgment	06.06.2026
Date of sentencing order, if any	NA

Accused Details:

Rank of the accused	Name of the accused	Date of the arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for the purposes of section 428 Cr. P.C
	Kala Singh	03.12.2021	13.12.2021	379, 427 & 34 IPC	Acquittal	NA	NA
	Jassa Singh	03.12.2021	13.12.2021	379, 427 & 34 IPC	Acquittal	NA	NA
	Davinderjit Singh	03.12.2021	13.12.2021	379, 427 & 34 IPC	Acquittal	NA	NA
	Makhan Singh	07.12.2021	13.12.2021	379, 427 & 34 IPC	Acquittal	NA	NA
	Manpreet Singh	07.12.2021	13.12.2021	379, 427 & 34 IPC	Acquittal	NA	NA

Present: Sh. Amit Goyal, Ld. APP for the State.
Accused Jassa Singh, Davinderjit Singh and Manpreet Singh on bail with Sh. SPS Khokhar, Advocate.

Accused Makhan Singh on bail with Sh. Ajitinder Singh Chahal, Advocate.

Accused Kala Singh on bail with Sh. K S Jeeda, Advocate.

JUDGMENT

The above-named accused have been forwarded to this court by the officer Incharge of Police Station, Nahianwala, Bathinda to face trial for commission of offence punishable under section 379, 427 & 34 IPC.

2. BRIEF FACTS:

In nutshell, the case of the prosecution, as unfolded in the report under section 173 of Cr.P.C is as under:

On 03.12.2021, complainant Ajaib Singh son of Harnek Singh, resident of village Harraipur, got recorded his statement before the police stating that he and Bharpur Singh owned adjoining agricultural fields. Due to the sowing season, the pump houses and bore-well equipment installed in the fields often remained unattended. On the said date, while proceeding towards his field, the complainant received information that three unknown young persons had damaged and stolen iron bands fitted on the bore-well pipe of Bharpur Singh. When the complainant reached near the fields at about 10:30 A.M., he noticed three persons dismantling the bore-well pipe installed at his own pump house. On raising an alarm, the said persons fled away from the spot on a motorcycle after causing damage and committing theft of iron bands and related articles. During investigation, the complainant suspected the involvement of Kala Singh son of Harbans Singh, Jassa Singh son of Billu Singh and Davinderjit Singh alias Ruby son of Gurmail Singh. On the basis of the statement of the complainant, FIR under Sections 379, 427 and 34 IPC was registered. The Investigating Officer visited the spot, prepared the site plan, recorded statements of witnesses and arrested the aforesaid accused persons on 03.12.2021. During investigation, various iron tools including a hammer, pliers, key, nuts, bolts and iron bands allegedly used in the commission of the offence were recovered from the accused persons. A motorcycle bearing registration No. PB-07-AC-6827 was also recovered and taken into possession. Subsequently, during further investigation, Makhan Singh son of Amar Singh, Manpreet Singh

alias Mani son of Makhan Singh, Ravinder Singh son of Gurjant Singh and Pargat Singh son of Sadhu Singh were nominated as accused on the basis of disclosure and other evidence. Makhan Singh suffered a disclosure statement under Section 27 of the Indian Evidence Act and, in pursuance thereof, got recovered two pieces of green-painted iron band concealed near the Bathinda Canal. The recovered articles were taken into possession after preparing the necessary recovery memo. However, during investigation conducted by the Deputy Superintendent of Police, S.D. Bhucho, accused Ravinder Singh and Pargat Singh were found innocent and were accordingly exonerated vide report dated 29.07.2023 with the approval of the Senior Superintendent of Police, Bathinda. After completion of investigation and other formalities, challan under Section 173 Cr.P.C. was presented against accused Kala Singh, Jassa Singh, Davinderjit Singh alias Ruby, Makhan Singh and Manpreet Singh alias Mani for trial before the Court.

2. APPEARANCE OF ACCUSED

On appearance of the accused, the copies of Challan and all the documents relied upon by prosecution were supplied to the accused free of costs as envisaged u/s 207 Cr.PC. After hearing Ld. APP for the State as well as Ld. counsel for accused and after perusing the Police Report and documents appended with it, a *prima facie* case under Section 379, 427 & 34 IPC were made out against accused, accordingly, they were charge-sheeted. The charge was read over and explained to the

accused in simple language to which they pleaded not guilty and claimed trial.

3. PROSECUTION EVIDENCE

In order to prove its case beyond reasonable doubt, the prosecution has led following oral and documentary evidence that are enlisted in annexure-1 attached with this judgment.

PW-1: Ajaib Singh complainant. He stated that he is an agriculturist and on 03.12.2021 received information that three unknown persons with covered faces had committed theft of iron bands from the agricultural lands of himself and Bharpur Singh. Upon reaching the spot, he saw three unidentified persons and raised an alarm, whereupon they fled on a motorcycle. He specifically stated that the accused present in Court were not the persons involved in the occurrence. Thereafter, he was declared **hostile** by the Ld. APP for the State. During cross-examination, he denied naming the accused persons in his statement to the police, denied identifying the accused, the motorcycle or the recovered articles, and denied witnessing any recovery, arrest or preparation of site plan. He admitted his signatures on statement Ex. PW1/A and documents Ex. PW1/B to Ex. PW1/F but stated that the police had obtained his signatures on blank papers. He also denied the contents of Mark-A and denied that the accused present in Court were involved in the occurrence.

PW-2 Manjeet Singh (spot witness) He stated that he did not know anything about the facts of the present case and did not identify the accused present in the Court. Thereafter, he was declared **hostile** by the Ld. APP for the State. During cross-examination, he denied that accused Kala Singh and Jassa Singh had committed theft of iron bands from the agricultural lands of Jagjeet Singh, Balkaran Singh, Lakhvir Singh and Bhagwan Singh or that the stolen articles were sold to Pargat Singh, Parwinder Singh, Makhan Singh and Manpreet Singh. He denied the contents of statement Ex. PW2/A and Mark-A regarding the involvement of the accused. However, he identified his signatures on Ex. PW2/A. He stated that the police had obtained his signatures on blank papers. He further stated that he could not identify the case property, including iron bands, other articles and the motorcycle. He denied the suggestion that he was deposing falsely.

PW-3 Bharpur Singh (spot witness). He stated that on 03.12.2021 he received information that some unknown persons had committed theft of iron bands from his agricultural land and from the land of Ajaib Singh. He stated that the accused present in the Court were not the persons who had committed the theft. Thereafter, he was declared **hostile** by the Ld. APP for the State. During cross-examination, he admitted that theft had taken place on 03.12.2021 but denied that accused Kala Singh, Jassa Singh, Davinderjeet Singh @ Ruby, Makhan Singh and Manpreet Singh @ Mani were involved in the occurrence. He denied the contents of Ex. PW3/A and Mark-A regarding the identity of the accused, though he identified his

signatures thereon. He stated that the police had obtained his signatures on blank papers. He further stated that he could not identify the case property, including the iron bands, other articles and the motorcycle. He also denied preparation of the site plan at his instance and denied the suggestion that he was deposing falsely.

PW-4 Retired SI Mukhtiar Singh, investigating officer of this case. He stated that on 03.12.2021 complainant Ajaib Singh got recorded his statement Ex. PW1/A, on the basis of which he prepared ruqa Ex. P1 and FIR Ex. P2 was registered. He visited the spot and prepared rough site plans Ex. P3 and Ex. P4. He further stated that accused Kala Singh, Jassa Singh and Davinderjeet Singh were arrested on 03.12.2021 vide arrest memos already Ex. PW1/C and their personal search memos Ex. PW1/D to Ex. PW1/F. He recovered iron bands, iron tools and a motorcycle from the accused vide recovery memo already Ex. PW1/B. He further deposed that accused Ravinder Singh was arrested vide arrest memo Ex. P5 and personal search memo Ex. P6. During police custody, accused Makhan Singh suffered disclosure statement Ex. P7 and, in pursuance thereof, got recovered two iron bands vide recovery memo Ex. P8. The site plan of the place of recovery was prepared as Ex. P9. He identified the accused present in Court as well as the case property.

PW-5 Jagjit Singh (spot witness) he stated that he did not know anything about the facts of the present case and did not identify the accused present in the Court. Thereafter, he was declared **hostile** by the Ld. APP for the State. During cross-examination, he denied that accused Kala Singh and

Jassa Singh had committed theft of iron bands from his agricultural land and the lands of Balkaran Singh, Lakhvir Singh and Bhagwan Singh or that the stolen articles were sold to Pargat Singh, Parwinder Singh, Makhan Singh and Manpreet Singh. He denied the contents of statement Ex. PW5/A and Mark-C regarding the involvement of the accused. However, he identified his signatures on Ex. PW5/A. He stated that the police had obtained his signatures on blank papers. He further stated that he could not identify the case property, including iron bands, other articles and the motorcycle. He denied the suggestion that he was deposing falsely.

PW-6 Gursewak Singh (spot witness) He stated that he did not know anything about the facts of the present case and did not identify the accused present in the Court. Thereafter, he was declared **hostile** by the Ld. APP for the State. During cross-examination, he denied that accused Kala Singh and Jassa Singh had committed theft of iron bands from his agricultural land and the lands of Balkaran Singh, Lakhvir Singh and Bhagwan Singh or that the stolen articles were sold to Pargat Singh, Parwinder Singh, Makhan Singh and Manpreet Singh. He denied the contents of Mark-D regarding the involvement of the accused. However, he identified his signatures thereon and stated that the police had obtained his signatures on blank papers. He further stated that he could not identify the case property, including iron bands, other articles and the motorcycle. He denied the suggestion that he was deposing falsely.

The prosecution has proved on record following documents:
statements Ex.PW1/A to Ex.PW1/F, statement Ex.PW2/A, ruqa Ex.P1, FIR Ex.P2, site plan Ex.P3 & Ex.P4, arrest memo Ex.P5, personal search memo Ex.P6, disclosure statement memo Ex.P7, recovery memo Ex.P8, site plan Ex.P9, record Ex.PW5/A.

Thereafter, Ld. APP closed the prosecution evidence vide separate statement on 22.05.2026.

4. STATEMENT OF ACCUSED UNDER SECTION 313 Cr.P.C./351 BNSS, 2023

On closure of prosecution evidence, accused was examined u/s 313 Cr.P.C./351 BNSS, 2023, in which all incriminating circumstances appearing in the statements of prosecution witnesses were put to accused, so as to apprise him of incriminating evidence, but accused had refuted all the evidences by pleading false implication and innocence. Accused opted not to lead defence evidence.

5. FINAL ARGUMENTS

I have heard the arguments advanced by the Learned APP for the State and the Ld. counsel for accused and I have gone through the file minutely and carefully. The Ld. APP for the State submitted that the prosecution has fully proved its case beyond reasonable doubt against accused by leading cogent and convincing evidence. All the prosecution witnesses have duly proved the case of prosecution and therefore, it is submitted that the accused be punished as per law.

Per Contra, learned defence counsel for the accused has controverted the contentions of the Ld. APP for the State. It is argued by the learned counsel for accused that a false case has been registered against the accused. No such occurrence ever took place. The material witnesses of the prosecution did not support the story of prosecution. There is no evidence to prove the guilt of the accused.

6. POINTS FOR CONSIDERATION:

After hearing both the counsel at length and after going through the file carefully and minutely following points have emerged for consideration by this court:

POINT-1: Whether on 03.12.2021, within the jurisdiction of Police Station Nahianwala, accused Kala Singh, Jassa Singh, Davinderjeet Singh @ Ruby, Makhan Singh and Manpreet Singh @ Mani, in furtherance of their common intention, committed theft of iron bands from the bore/petrol pump of Bharpur Singh and thereby committed an offence punishable under Section 379 read with Section 34 IPC?

POINT-2: Whether on the aforesaid date, time and place, the accused persons, in furtherance of their common intention, caused damage to the iron bands installed at the bore/petrol pump of Bharpur Singh and committed mischief causing loss exceeding Rs.50/-, thereby committing an offence punishable under Section 427 read with Section 34 IPC?

POINT-3: Whether the prosecution has been able to prove the guilt of the accused beyond reasonable doubt?

FINDING ON POINTs 1,2 & 3:

After delving deep into evidence and after hearing both the counsel at length, this court is of the considered view of the cumulative effect of the evidence is that the prosecution has failed to prove the guilt of the accused person beyond reasonable doubt as required in criminal cases due to following reasons:

1. The complainant Ajaib Singh who is star witness of the present case did not support the prosecution version. Thereafter, he was cross examined by the Ld. APP for the State and the allegations against the accused were put to him. His complaint Ex. PW1/A and Mark A were put to him, but he denied having suffered the same before the police. It is also stated by him that the present accused persons present in the Court are not the same persons who committed theft. The prosecution failed to extract any incriminating substance against the accused even after the cross examination of the said witness. Ultimately, he was declared hostile by the Ld. APP.

2. In the present case, complainant stated that the persons involved in the occurrence had covered faces and that the accused present in the Court were not the persons who had committed the theft. During his cross-examination, he completely resiled from the statement and did not support the version of prosecution. In such circumstances, when the identity of the accused has become doubtful, benefit of doubt goes to accused, as no offence can be attributed to accused, since, the star

witnesses of the prosecution has failed to support the case of the prosecution, therefore the prosecution has failed to prove any incriminating evidence against the accused and to discharge its burden beyond reasonable doubt. In the absence of the proof of commission of any act by the above named accused person, provisions of **Section 379, 427 & 34 of IPC** are not attracted. As the evidence adduced on record by the prosecution is not sufficient to prove the guilt of the accused beyond the shadow of reasonable doubt, which entitles them to benefit of doubt. Reference may be made to the judgment delivered by the Hon'ble Punjab & Haryana High Court *State of Haryana Vs. Shamsher Singh, reported in 2006 (3) RCR (Criminal) 346 (P&H) (DB)*, in which it is held that *in a criminal trial, prosecution is cast with very serious duty to bring on record quality evidence in order to substantiate its allegation against an accused person. It cannot seek conviction of any person without bringing substantial evidence on record as it becomes extremely difficult for the Court to pronounce a person guilty in the absence of fool-proof evidence nailing guilt by the accused.*

3. In the present case, prosecution's case entirely founded on the statement of complainant. Generally, the eye witnesses to the occurrence corroborate the prosecution version regarding theft, however, in the present case, the complainant, and other eye witness has turned hostile. Complainant has retracted from their earlier statements and denied the occurrence of any offence. The evidence of prosecution collapses and

leads to acquittal of accused, since the identity of accused is not proved. It is also a trite law that testimony of hostile witnesses including complainant and eye witnesses cannot be rejected entirely. However, in order to rely upon the reliable portions, independent corroboration is necessary which is also absent in the present case.

4. Mere recovery of certain articles does not suffice the requirement of law. There is no direct evidence left to prove the case of prosecution, which undermines the prosecution version raising serious doubts about involvement of the accused persons in the commission of the alleged offence of theft and mischief. It is undisputed law that conviction cannot rest on tainted or uncorroborated testimony.

5. The entire record and evidence on record by the prosecution is highly doubtful and the cumulative effect of these arguments and discussion made above is that the prosecution has not duly discharged its burden beyond reasonable doubt to prove guilt of the accused and to convict the offenders for the offences charged.

7. CONCLUSION:

It is a well-known principle of criminal jurisprudence that the prosecution has to stand on its own legs and has to prove the case against the accused person beyond reasonable doubts by leading reliable, cogent and convincing evidence. In our constitutional regime, Indian Criminal Justice System follows the principles of fair trial wherein presumption of innocence is accorded to the accused person until proven guilty. Moreso,

accused person is entitled to every reasonable doubt in the prosecution story and any such doubt in the case of prosecution entitles the accused to acquittal. There is no gain saying that where reasonably probable and even balanced view of the evidence are possible, law requires the Courts to incline towards giving benefits of doubt to the accused.

The above-mentioned reasons or lacunas in the whole process of investigation, renders the version of prosecution highly doubtful leading to irresistible conclusion that prosecution has not been able to discharge its burden. Thus, this Court is of the considered opinion that prosecution has failed to bring on record reliable and cogent evidence in order to prove the commission of offence and guilt of accused under **Section 379, 427 & 34 of IPC.**

Accordingly, this Court hereby accords the benefit of doubt to the accused and holds the accused not guilty of commission of the said offence. *Accused Kala Singh, Jassa Singh, Davinderjit Singh, Makhan Singh and Manpreet Singh are acquitted of the offences charged.* Bail bonds and surety bonds stand discharged. Case property, if any, be dealt with as per rules after expiry of the period of limitation for filing appeal or revision, or subject to the result of appeal or revision, if any. **File be consigned to record room, Bathinda after due compliance.**

Pronounced in Open Court: Date of Order: 06.06.2026 <i>Divya SG-III</i>	(Sakshi Arora) PCS (J) Judicial Magistrate Ist Class, Bathinda UID No . PB00692
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ANNEXURE A
CASE MANAGEMENT

LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES

A. PROSECUTION:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT, MEDICAL, PANCH, OTHER WITNESS)
PW-1	Ajaib Singh	Complainant
PW-2	Manjeet Singh	Spot witness
PW-3	Bharpur Singh	Spot witness
PW-4	Retired SI Mukhtiar Singh	Investigating Officer
PW-5	Jagjit Singh	Spot witness
PW-6	Gursewak Singh	Spot witness

A. DEFENCE WITNESS, IF ANY

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT, MEDICAL, PANCH, OTHER WITNESS)
	NONE	

LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS

A. PROSECUTION:

SR NO	EXHIBITS NO.	DESCRIPTION
1.	Ex.PW1/A to Ex.PW1/F	Statement
2.	Ex.PW2/A	Statement
3.	Ex.P1	Ruqa
4.	Ex.P2	FIR
5.	Ex.P3 & Ex.P4	Site plan
6.	Ex.P5	Arrest memo
7.	Ex.P6	Personal search memo
8.	Ex.P7	Disclosure statement memo
9.	Ex.P8	Recovery memo
10.	Ex.P9	Site plan
11.	Ex.PW5/A	Statement

A DEFENCE:

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT, MEDICAL, PANCH, OTHER WITNESS)
	NONE	