

**IN THE COURT OF SH. HIRDEJIT SINGH, PCS
SUB DIVISIONAL JUDICIAL MAGISTRATE, RAJPURA**

CNR No. PBPTA1-001214-2023

C.I.S No : CHI-128-2023

Date of Institution : 11.04.2023

Date of Decision: 02.01.2025

State of Punjab

Versus

Sahib Singh alias Sabi son of Tarsem Singh, Resident of Village Shamdoo, Police Station City Rajpura, District Patiala.

.....Accused

FIR No: 31 Dated 07.02.2023

Under Sections : 457, 380 and 411 of IPC

Police Station: City Rajpura

Present : Sh.Rupinder Singh, Addl. Public Prosecutor for the State.
Accused in custody represented by Sh. H.S. Bhangu, Adv.

JUDGMENT

Prosecution Story.

On 07.02.2023 ASI Gurmukh Singh along with other police officials in search of bad elements were present at Gagan Chowk, Rajpura, there Vikrant Walia came present and got his statement recorded.

2. The brief contents of his statement are that he is owner of Vishwakarma Industry Focal Point, Rajpura near Shamdoo Camp. They have kept dyes near machines in order to prepare different items. In the intervening night of 04/05.02.2023 three iron dyes were stolen from his factory. They tried to trace out the stolen dyes at their own level and in this process he came to know that those have been stolen by Sahib Singh alias Sabi and Lovepreet Singh. They took the iron dyes on an Activa

Scooter without number plate. Lastly, he prayed for necessary action against the accused persons.

3. On the strength of such statement present FIR was registered against the accused persons. On 10.02.2023 ASI Gurmukh Singh along with other police officials were present near Shri Krishna Dharam Kanda. A secret information was received that accused Sahib Singh alias Sabi in order to sell the stolen dye is coming to Rajpura on his Aactiva without number plate and if immediately checking is started then accused can be apprehended along with stolen dye and Aactiva Scooter without number plate. After some time checking was started and during that process a clean shaven man on Aactiva Scooter without number plate came. On noticing the police party he got perplexed and tried to turn around. He was stopped and apprehended. On being asked he disclosed his name as Sahib Singh alias Sabi. An iron dye kept in a Gunny bag was recovered from his possession. It was bearing stamp of Vishwakarma Industry. Complainant Vikrant Walia was called at the spot and he identified the iron dye. The iron dye was converted into a parcel and sealed with seal bearing impression 'GS'. It was taken into police possession vide separate recovery memo. Separate identification memo was also prepared. Accused was arrested. During custodial interrogation on 11.02.2023 accused Sahib Singh alias Sabi suffered a disclosure statement in which he admitted commission of theft of three iron dyes from Vishwakarma Industry, Shamdoo Camp. He further stated that he had concealed two iron dyes

near Mehtabgarh Bridge in the bushes. Thereafter, recovery of two iron dyes was effected from the place disclosed by accused Sahib Singh alias Sabi. Both the dyes were converted into a parcel and sealed with seal bearing impression 'GS'. For the second time complainant Vikrant Walia was called at the spot and he identified the iron dyes. During investigation statements of the witnesses were recorded. After completion of the investigation and other necessary formalities challan was presented before the court.

4. On presentation of challan accused was supplied with the copies of challan and documents appended therewith free of costs in mandatory compliance of Section 207 Cr.P.C.

5. On finding a prima facie case the charge was framed under Sections 457, 380 and 411 of IPC against accused. The contents of the charge were read over and explained to the accused in simple language to which accused did not plead guilty and claimed trial.

Prosecution Evidence.

6. **PW-1 is Vikrant Walia.** He is complainant in this case and deposed as per prosecution story and has proved his statement as Ex.PW1/A and memos of identification as Ex. PW1/B and Ex.PW1/C.

7. **PW-2 is PHG Gursharan Singh.** He is recovery witness in this case and has deposed regarding recovery of two iron dyes effected from the place disclosed by accused Sahib Singh alias Sabi in his

disclosure statement and also proved disclosure statement as Ex.PW2/A and memo of possession as Ex.PW1/C.

8. **PW-3 is ASI Gurmukh Singh.** He is the Investigating Officer in this case. He deposed regarding recovery of iron dyes from the possession of accused during checking and also proved on record statement of complainant as Ex.PW1/A, police proceedings as Ex.PW3/A, FIR as Ex.PW3/B, endorsement as Ex.PW3/C, site plan as Ex.PW3/D, recovery memo as Ex. PW1/B, arrest memo as Ex.PW3/E, personal search memo as Ex.PW3/F, site plan of place of recovery as Ex.PW3/G, memo of possession of Aactiva Scooter as Ex.PW3/GA, disclosure statement as Ex.PW2/A and site plan as Ex.PW3/H.

9. **PW-4 is ASI Sukhwant Singh.** He has deposed with regard to recovery of one iron dye from the possession of accused on the day when he was apprehended by the police on the basis of a secret information and also proved recovery memo and identification memo as Ex.PW1/B, arrest memo as Ex.PW3/E, personal search memo as Ex.PW3/F, site plan of place of recovery as Ex.PW3/G, memo of possession of Aactiva Scooter as Ex.PW3/GA.

10. Thereafter, prosecution evidence was closed vide Court order dated 11.11.2024.

11. Statement of the accused under Section 313 Cr.P.C. was recorded, in which, the entire incriminating material evidence appearing against him was put to him for his explanation. The accused pleaded

innocence and alleged false implication. He took the plea that he is innocent and has not committed any alleged offence. He has been implicated falsely in the present case by the police. Police has planted false case and recovery to implicate him in the present case. He opted to lead defence evidence. But closed the same without leading any evidence in his defence.

12. Heard and file perused.

Points of determination No.1 and 2

1. Whether accused has committed an offence under Section 457 IPC ?
2. Whether accused has committed an offence under Section 380 IPC ?

13. Both these points of determination are taken up together for the purpose of discussion being interlinked and interconnected.

14. Precisely, the allegations against the accused persons are that on the fateful day three iron dyes were stolen from the premises of Vishwakarma Industries owned by complainant Vikrant Walia. In his statement to the police Ex.PW1/A complainant Vikrant Walia had stated before the police that three iron dyes were stolen from his premises in the intervening night of 04/05.02.2023. Later on he came to know that the said theft has been committed by accused Sahib Singh alias Sabi and Lovepreet Singh. It is not the version of this witness that he saw the above named accused persons while committing the theft of iron dyes or he caught them red handed at the time of commission of alleged theft.

Admittedly, he came to know about the commission of theft by accused persons subsequently. The source from which he came to know about the accused persons is not disclosed by this witness in his police version Ex.PW1/A or recorded in the court on 20.02.2024. None of the witnesses examined by the prosecution have actually seen accused while committing theft of the iron dyes.

15. To sum up there is no evidence on record to prove that accused persons committed trespass into the premises of complainant namely Vishwakarma Industries and committed theft of three iron dyes lying therein. Hence to this extent the case of prosecution is a case of no evidence. Accordingly, both these points of determination are decided in favour of accused and against the prosecution.

POINTS OF DETERMINATION NO.3 AND 4

3. Whether on 10.02.2023 accused has committed an offence under Section 411 IPC ?

4. Whether on 11.02.2023 accused has committed an offence under Section 411 IPC ?

16. Both these points of determination are taken up together for the purpose of discussion being interlinked and interconnected. In order to prove the fact that accused the receiver of stolen property prosecution was required to prove the following two elements:-

1. Recovery from the possession of accused
2. The recovered articles must be stolen in nature.

17. In order to prove the factum of recovery prosecution had examined PW3 ASI Gurmukh Singh, PW2 PHG Gursharan Singh and

PW4 ASI Sukhwant Singh. Testimony of PW3 ASI Gurmukh Singh who is the Investigating Officer relates to recording of statement of complainant Vikrant Walia by the police and registration of FIR pursuant to the same. He had further deposed that on 10.02.2023 on the basis of secret information accused Sahib Singh alias Sabi was apprehended. From his possession recovery of one iron dye was effected. Complainant was called at the spot and he identified the same. He had further deposed that during custodial interrogation accused suffered a disclosure statement and in pursuance of the same recovery of two iron dyes was effected from the place disclosed by the accused. Again complainant was called at the spot and he identified the same. This witness further proved on record all the relevant memos prepared by the police at the time of effecting recovery. PW2 PHG Gursharan Singh has deposed with regard to recovery of two iron dyes from the possession of accused and effected pursuant to his disclosure statement. He further proved on record memos prepared by the police at that time. PW4 ASI Sukhwant Singh has deposed with regard to recovery of one iron dye from the possession of accused on the day when he was apprehended by the police on the basis of a secret information. Again this witness proved all the relevant memos prepared by the police at that time. These three witnesses have deposed in consonance with each other. Testimony of these witnesses remained firm and convincing through out despite exhaustive cross-examination by Learned counsel for the accused.

18. To sum up by virtue of testimony of above mentioned witnesses, the recovery of three iron dyes from the possession of accused Sahib Singh alias Sabi stands proved on record. Now it is to be determined whether those recovered dyes are stolen in nature or not. In this regard testimony of PW1 Vikrant Walia is important. He had testified on oath that in the intervening night of 04/05.02.2023 theft of three iron dyes was committed by accused Sahib Singh alias Sabi and Lovepreet Singh. Accused was apprehended by the police on 10.02.2023. Recovery of one iron dye was effected from his possession. He went to the spot on being called by the police and identified his iron dye vide identification memo Ex.PW1/B. He had further deposed 11.02.2023 he was again called by the police to identify his iron dyes and he identified the same vide memo Ex.PW1/C. Now it is not the case of accused that he is owner of the iron dyes recovered from his possession or he was in permissive possession of the same on the fateful day. In absence of any such fact being established on record it comes out that the recovered iron dyes from the possession of accused were stolen in nature. So therefore the two elements to make out an offence under Section 411 IPC are proved beyond reasonable doubt against accused. Accordingly both these points of determination are decided in favour of prosecution and against the accused and accused Sahib Singh alias Sabi is held guilty for committing an offence under Section 411 of IPC. Let convict Sahib Singh alias Sabi be heard on question of sentence.

Pronounced in open court.
Dated: 02.01.2025

(Hirdejit Singh, PCS)
Sub Divisional Judicial Magistrate
Rajpura-PB00328

ORDER ON THE QUESTION OF SENTENCE:

Present : Sh. Rupinder Singh, Addl. Public Prosecutor for the State.
Convict Sahib Singh alias Sabi in custody.
Sh. H.S. Bhangu, Advocate counsel for convict.

19. I have heard the convict on the question of sentence. Convict has stated that he is only bread winner of his family and he is poor person, therefore, prayed that a lenient view may kindly be taken.

20. After weighing the aggravating and mitigating circumstances of the case, I am of the considered view that convict Raju Kumar alias Tholu does not deserves leniency and he is sentenced as under:-

Convict Sahib Singh alias Sabi

U/Sec.	Sentence Awarded
411 of IPC	To undergo rigorous imprisonment for a period of 06 months.

21. The period for which the convict has been in custody during the pendency of investigation and trial of this case, shall however be set off against the substantive sentence of imprisonment awarded to him. Case property be disposed of as per rules after the expiry of period of filing of Appeal/ Revision, if any. File be completed and consigned to Judicial Record Room, Rajpura.

Pronounced in open court
Dated: 02.01.2025

Hirdejit Singh, PCS
Sub Divisional Judicial Magistrate,
Rajpura (PB00328)

Rajinder Kumar-Stenographer Gr-II