

State versus Harpreet Singh, 1

**IN THE COURT OF MS.SHILPI GUPTA,
CHIEF JUDICIAL MAGISTRATE
MOGA (UID No. PB0315)**

CNR No: PBMO030020832022

CIS No: CHI/129/2022

Date of Registration 29.04.2022

Date of Decision: 10.02.2025

State of Punjab

Versus

Harpreet Singh son of Tarlochan Singh, resident of Patti Natho, Gurian, P.S
Philour.

....Accused

**FIR No. 145 dated 18.11.2009
Under Sections 406 IPC,
Police Station: City South, Moga.**

Present: Shri Amrit Mittal APP for the State.
Accused Harpreet Singh on bail with counsel Shri David
Aggarwal, Advocate.

JUDGMENT

1. The above named accused were sent up to this Court by the officer in charge of Police Station City South Moga to face trial in the present case, which was registered on the basis of complaint moved by complainant Gurpreet Singh son of Surinderpal Singh, resident of Bahona Chowk, Moga moved to SSP Moga regarding taking action against his wife namely Tejinder Kaur alias Jyoti, his father in law namely Tarlochan Singh son of Karam Singh, his mother in law namely Surinder Kaur, his sister in law Rajbinder Kaur, his brother in law Harpreet Singh, all residents of Near Railway Fatak, Rarka Road Patti near Girdhari Halwai, Gorian for taking legal action against them on the ground that his marriage was solemnized with Tejinder Kaur alias Jyoti about 6 months ago. After the marriage, the behaviour of his wife was not good towards him. About 4 months, by making lame excuse of illness of her parents, Tejinder Kaur alias Jyoti

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remained in her parental house. He is a shopkeeper and usually went out of City. In his absence, his wife went to her parental house and also took articles along with her i.e. gold set, earrings pair, three gold rings weighing 4 tolas and two suitcase of clothes. He visited his in laws house in order to rehabilitate Tejinder Kaur alias Jyoti, but she under the instigation of her parents refused to accompany him. Rajbinder Kaur sister of his wife, is also residing with her parents. Pammi mediator of his marriage is also residing there. Later on he came to know that his wife was earlier married to some one and after taking huge alimony, she divorced her first husband. He came to know that all the assailants in connivance with each other are indulged in these types of crime. Accused persons gave forged applications against the complainant regarding maltreatment. About one month prior, his brother in law namely Harpreet Singh took his motorcycle bearing registration no. PB-08-6581 make Hero Honda CBZ, but said Harpreet Singh did not return his motorcycle. His motorcycle may be recovered from said Harpreet Singh. RC of the motorcycle is lying with the motorcycle. Action may kindly be taken against the accused persons.

Inquiry on the complaint moved by complainant was conducted and as such, present FIR under Section 406 IPC against accused Harpreet Singh was got registered. During the investigation of the present case, accused was declared proclaimed offender vide order dated 30.10.2012 passed by the Court of Shri Rajiv Kumar Beri, the then JMIC, Moga and on dated 02.11.2012, PO challan was presented in the Court against the accused. On 03.03.2022, accused of the present case was arrested in the present case. During interrogation, accused made disclosure statement.

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Separate memos i.e. arrest memo, personal search memo and intimation of arrest memo were prepared. Statements of witnesses recorded. After completion of investigation, challan under Section 406 IPC against accused Harpreet Singh was prepared and presented in the Court.

2. On the presentation of challan, complete copies thereof were supplied to the accused free of cost as required under Section 207 Cr.P.C (now Section 230 of BNSS)

3. Finding a prima facie case, charge sheet under sections 406 of IPC, was framed against the present accused and accordingly, charge was framed against the accused vide order dated 16.05.2022, to which he pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined PW1 Dalbir Singh, Additional District Nazir, DC Office, Moga, who brought the summoned record of vehicle bearing no. PB-08-AE-6584 and proved the screen report as Ex.P1. As per record, the vehicle is a motorcycle make Hero Honda bearing Chassis no. 00156, engine no. 02075 and registered owner of the vehicle is Gurpal Singh son of Amrik Singh, resident of village Salala, District Jalandhar.

5. The prosecution then examined PW2 Gurpreet Singh, complainant of the present case, who deposed as per the version of prosecution and supported the prosecution story. He proved the complaint moved to SSP, Moga as Ex.P6 and identified his signatures at point A. He handed over the invoice of his motorcycle as Mark A.

6. The prosecution then examined PW3 ASI Jaswinder Singh, who is investigating officer of the present case, who deposed as per the sequence

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of investigation conducted by him on the complaint of complainant and proved on record arrest memo as Ex.P2, personal search memo as Ex.P3, disclosure statement of accused as Ex.P4, recovery memo as Ex.P5, bill of recovered motorcycle as Mark A, case property i.e. motorcycle in question as MO1.

7. The prosecution then examined Munish Kumar Reader in the Court of learned District & Sessions Judge, Moga as PW4, who identified signatures of Shri Rajeev Kumar Beri, the then CJM, Moga on order dated 30.10.2012, vide which accused was declared proclaimed offender and proved the copy of said order as Ex.PW4/A.

8. The prosecution then examined PW5 PHG Baldev Singh, witness of different memos, who corroborated the version of PW3 ASI Jaswinder Singh Investigating Officer.

9. The prosecution then examined SI Charanjit Singh as PW5 (re-numbered), who conducted the partial investigation of the present case and proved on record application moved regarding verification of ownership of motorcycle in question as Ex.PW5/A and as per the report, the registered owner is Baljinder Singh son of Nahar Singh, vide endorsement Ex.PW5/B made by office of DTO Moga.

10. The prosecution lastly examined Amit Beri as PW6, who is salesman in the shop under the name and style of Sat Sahib Auto Deals and proved the receipt dated 06.07.2008 regarding purchase of motorcycle in question by complainant as Mark A.

11. Thereafter, the prosecution evidence was closed by order vide order dated 09.12.2024.

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12. Statement under Section 351 BNSS of the accused recorded, wherein accused pleaded his innocence and that he has been falsely implicated in the present case. Accused opted to lead evidence in his defence, but did not lead any defence evidence.

13. I have heard the arguments addressed by learned Addl.PP for the State and learned counsel for the accused persons and have gone through the judicial file carefully.

14. As per the story of the prosecution, complainant Gurpreet Singh is the real brother in law (Jija) of accused Harpreet Singh and admittedly, complainant Gurpreet Singh is having matrimonial dispute with his wife namely Tejinder Kaur alias Jyoti, who is real sister of accused Harpreet Singh and it is also admitted fact between both the parties that now both Gurpreet Singh and Tejinder Kaur alias Jyoti have conducted second marriage after their Panchayati divorce with each other. The initial wording of the present complaint, made by the complainant Gurpreet Singh to the SSP, Moga, is that Harpreet Singh and his father Tarlochan Singh are giving false applications against the complainant to the police due to his matrimonial dispute with his wife Tejinder Kaur alias Jyoti, but in the present FIR, the allegations has been made by the complainant Gurpreet Singh that accused Harpreet Singh, borrowed motorcycle bearing no. PB-08-A-6581 make Hero Honda CTZ from the complainant for his urgent work and now not returning the same. Therefore, he has committed the offence under Section 406 IPC by misappropriating the motorcycle in question. But in order to prove the ownership of the said motorcycle, complainant has placed on record one document dated 06.07.2008, which is Mark A on

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record, as per which, he has purchased the second motorcycle from Sat Sahib Auto Dealer. In order to prove this document, prosecution has examined PW6 Amit Beri son of Vinod Beri, who alleged that he was salesman in the Sat Sahib Auto Deals, stated in his examination in chief itself that the firm has closed six years ago and he cannot produce any record regarding the document dated 06.07.2008, which is Mark A and he just identified the signatures of Raj Kumar Grover, who is now deceased, on the same, but he has nowhere stated that the motorcycle in question was purchased by the complainant in his presence from Sat Sahib Auto Deals or no witness has examined by prosecution in whose presence, this motorcycle was purchased by complainant. The original document Mark A has never come into the Court.

15. PW1 Dalbir Singh, Additional District Nazir DC Office, Moga, made statement in the Court that as per their record, the motorcycle in question bearing registration no. PB-08-AE-6581, is registered in the name of Gurpal Singh son of Amrik Singh, village Salala, District Jalandhar. Therefore, name of the complainant does not find mentioned in the ownership record, of the motorcycle in question. No witness has been examined by the prosecution that in whose presence the motorcycle in question was given by the complainant to accused for use. Complainant Gurpreet Singh in his cross-examination as PW2 admitted that he has not provided any document of registration of the motorcycle in question during the investigation of the present case to the police. He further admitted that he is not in possession of original document Mark A. PW3 ASI Jaswinder Singh, Investigating Officer of the present case stated in his cross-

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examination that complainant never produced any original document of motorcycle in question, during investigation and he was just having photocopy of receipt dated 06.07.2008, which is Mark A on record and as per the registration authority, Moga, said vehicle is registered in the name of Gurpal Singh son of Amrik Singh, village Salala, District Jalandhar. He further stated in his cross-examination that no recovery of the motorcycle in question has been effected from the accused. Rest of the witnesses are formal in nature.

16. Therefore, from the testimony of all the prosecution witnesses neither the ownership of the motorcycle bearing registration no. PB-08-AE-6581 on the name of complainant is proved nor its entrustment by complainant to accused is proved on record. No recovery has been effected from the accused of any motorcycle as alleged. Admittedly, real sister of accused namely Tejinder Kaur was the wife of complainant Gurpreet Singh and they were having matrimonial dispute with each other and that might be the reason of bad blood between the parties. Therefore, the story of the prosecution seems to be concocted without any proof of the same.

17. In view of the entire discussion made above, prosecution has miserably failed to prove its case against accused Harpreet Singh beyond reasonable doubts. Accused is acquitted of the charges framed against him. Case property be disposed of under the rules after the expiry of the period of appeal or revision if any. Bail bond/surety bond, spurdari bond/surety bond stands discharged. File be consigned to the record room.

Pronounced:-
Dated: 10.02.2025
(Ravneet Kaur, Stenographer Grade-II)

(Shilpi Gupta), PCS,
Chief Judicial Magistrate,
Moga / (UID No.PB0315)

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