



**IN THE HIGH COURT OF ANDHRA
PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3560]

**FRIDAY, THE SEVENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 588/2009

Between:

1. KORUGANTI CHANDRASEKHAR,, S/O. BASAVA RAJU,
N/O. KOSTALU OF ANANTAPUR DISTRICT, NOW
RESIDING AT KOTHAPATNAM BUS STAND CENTRE,
ONGOLE, PRAKASAM DISTRICT.

...PETITIONER

AND

1. STATE OF A P REP BY PP, rep.by its Public Prosecutor,
High Court of A.P., Hyderabad through Naguluppalapadu
Police Station, Prakasam District, rep by its Station House
Officer.

...RESPONDENT

Revision filed under Section 397/401 of Cr.P.C praying that
in the circumstances stated in the affidavit filed in support of the
Criminal Revision Case, the High Court may be pleased to
Aggrieved by orders dt.06.01.2009 passed in CrI.A.No.114/2007
on the file of the Court of Session Prakasam Division, Ongole by
confirming the Judgment dt.05.10.2007 passed in CC.No.92/2006
on the file of the III Addl. Munsif Magistrate's Court, Ongole the
petitioner begs to present the memorandum of Criminal Revision
Case

Counsel for the Petitioner:

1. B PARAMESEWARA RAO
2. LEGAL AID

Counsel for the Respondent:

1. PUBLIC PROSECUTOR

The Court made the following:

JUDGMENT:

The present Criminal Revision has been preferred by the petitioner assailing the concurrent findings of conviction and sentence recorded by the Courts below for the offence punishable under Section 411 IPC, whereby the petitioner was sentenced to undergo Rigorous Imprisonment for a period of three (3) months and to pay a fine of Rs.500/-, in default, to suffer Simple Imprisonment for one (1) month.

2. Heard learned Legal Aid Counsel for the petitioner and learned Assistant Public Prosecutor.

3. Sri B. Parameswara Rao, learned Legal Aid Counsel appointed by the High Court Legal Services Authority, submits that the order of conviction passed by the learned trial Court and confirmed by the learned Appellant Court is improper and illegal. He submits that there is no sufficient material to sustain the finding that the offence under Section 411 IPC has been proved against the petitioner. He further submitted that there is no direct evidence to establish that the petitioner had committed theft. He further submits that the evidence of PW3 cannot be relied upon as he is a stock witness. The learned counsel further submits that the learned trial Court should have disbelieved the evidence of PW3 because of identification of MO1 by PWs 1 and 2 at Police

Station, but not at Z.P.High School. He further submits that the observation of the learned trial court is erroneous. Hence, the petitioner deserves acquittal.

4. On the other hand, learned Assistant Public Prosecutor submits that the observation of the learned trial Court is well founded and based on proper evidence. It is further submitted that though the charge was framed under Sections 379 and 411 IPC, the learned trial Court, having found that there is no direct evidence of commission of theft by the petitioner, rightly convicted the petitioner for the offence under Section 411 IPC. Both the Courts below have concurrently held that the petitioner has failed to administer any explanation regarding his possession over the stolen property. Therefore, it is contended that the instant Criminal Revision is devoid of merits and is liable to be dismissed.

5. Having heard the learned counsel for both parties, and on perusal of the record, it appears from prosecution case that on 30.12.2005, during the late hours of the night, some unknown person committed theft of an Auto bearing Registration No.AP 27 V 4458, and a complaint was made before the police party on 03.01.2006. During the course of investigation, the police apprehended the petitioner on 05.01.2006, and when the accused was apprehended, it has been reported by the police

that he was in possession over the said stolen article. The seizure of the stolen vehicle along with arrest of the petitioner was made in the presence of PW3.

6. The evidence of PW3 clearly establishes that the stolen article was recovered from the possession of the petitioner. The learned trial Court, in deciding the issue regarding the credibility of evidence of PW3, has categorically observed that PW3 though was not an eyewitness to the act of theft by the petitioner, but when the arrest was made, the petitioner was in possession of the stolen property. Admittedly, the stolen article was seized from the possession of the petitioner. During the course of trial, neither the defence raised any question regarding the possession of the stolen article by the petitioner nor the petitioner explained in his evidence under Section 313 Cr.P.C. before the Court that how the said stolen article was under his possession at the time of arrest. To constitute an offence under **Section 411 IPC**, the essential ingredients are that the accused must have dishonestly received or retained any stolen property knowing or having reason to believe the same to be stolen.

In the present case, it is evident that the stolen property was found in the possession of the petitioner at the time of his arrest. In his statement recorded under Section 313 Cr.P.C., the

petitioner has not disclosed the fact how the stolen property was under his possession at the time of arrest.

7. As per **Section 114(a) of the Indian Evidence Act**, the Court may presume that a person who is found in possession of stolen property soon after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession.

In the instant case, the petitioner failed to give any account or explanation for his possession of the stolen article. Under the above observation, it appears that the learned trial Court as well as learned Appellate Court has rightly held that the petitioner has failed to account possession of MO1 and found guilty of the offence under Section 411 IPC, this Court find no reason to disbelieve or interfere with the concurrent findings recorded by the Courts below.

8. Accordingly, the order of conviction and sentence passed by the learned trial Court and confirmed by the learned Appellate court is found to be just and proper. The instant Criminal Revision Case is hereby dismissed on devoid of merits.

The petitioner, who has already undergone imprisonment for 14 days, is directed to appear before the learned trial Court within two (2) weeks from the date of receipt of this order to serve

out the remaining part of his sentence, failing which, the learned trial Court shall issue warrant of arrest against the petitioner to apprehend him to enforce the sentence.

Let a copy of this order be transmitted to the learned trial Court forthwith for necessary compliance.

SUBHENDU SAMANTA, J.

Date: 07.11.2025
ARB

HON'BLE SRI JUSTICE SUBHENDU SAMANTA

Criminal Revision Case No.588 of 2009

Date: 07.11.2025

ARB