

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J) No.08 of 2022

[Against the Judgment of conviction and Order of sentence dated 20.12.2021, passed by the learned District & Additional Sessions Judge - III, Koderma, in Sessions Trial No.03 of 2016, arising out of Satgawan P.S. Case No.85 of 2013]

Amar Choudhary @ Amar Chaudhary, aged about 34 years, Son of Late Narayan Chaudhary, Resident of village - Baijaniya, P.O - Madhopur, P.S - Satgawan, District - Koderma.
..... **Appellant**

Versus

The State of Jharkhand **Respondent**

PRESENT
HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellant : Mr. Sachin Mahato, Advocate
For the State : Mr. Bishwambhar Shastri, A.P.P

Order No.09/ Dated: 20th April, 2026

1. Heard Mr. Sachin Mahato, learned counsel for the appellant and Mr. Bishwambhar Shastri, learned A.P.P.
2. The present criminal appeal has been preferred against the judgment of conviction and order of sentence dated 20.12.2021 passed in Sessions Trial No. 03 of 2016 arising out of Satgawan P.S. Case No. 85 of 2013 by the learned District & Additional Sessions Judge-III, Koderma, whereby the appellant has been convicted for the offence punishable under Sections 413/ 414 of the I.P.C and has been sentenced to undergo R.I. for a period of seven years with a fine of Rs.5000/- with default clause for the offence under Section 413 I.P.C and R.I for two years with a fine of Rs.1,000/- with default clause for the offence under Section 414 IPC and both the sentences were directed to run concurrently.

3. The criminal law has been put into motion by lodging an F.I.R being Satgawan P.S. Case No.82 of 2013 dated 23.11.2013.

The case of the prosecution, in brief, is that the informant of this case is Officer-In-Charge, Satgawan P.S., . Sri Subhash (S.I), who has alleged that on 22.11.2013 at 10:30 A.M., he along with police officials in course of investigation of a case vide Satgawan P.S. Case No. 82/2013, had gone to Madhopur from Satgawan to arrest an absconding accused Farka @ Faruk and as soon as they reached near Sheopur brick-kiln they found a person coming with motorcycle from Madhopur side. Seeing the police force, he started moving his bike backside speedily to escape from the police. Then under some reasonable suspicion, the police force followed him and captured with the motorcycle. The suspect was inquired by the police for his identity and motorcycle bearing No. JH-02-7165 (TVS Apache black coloured), who could not produce any legal and valid document and on further query made by the police he disclosed his identity as Md. Saud, S/o Mansoor Alam, r/o village-Baijaniya. He has further disclosed that the said motorcycle was purchased by him knowingly from his co-villager namely Amar Chaudhary without any document. He further stated that Amar Chaudhary used to sell vehicles habitually to the people of the locality without any paper and he has further disclosed that his co-villagers, namely, Afzal Miyan and Md. Raja Ashrafi had

also purchased stolen motorcycles from Amar Chaudhary and the same are still in their possession in the said village. Then on his disclosure about the alleged theft motorcycles kept with other persons in village-Baijaniya, the informant, being a police officer has conducted raid in the house of Amar Chaudhary in village-Baijaniya but he was found absconding from his house. In course of search, a Hero Honda Splendor Plus silver coloured motorcycle bearing registration No. BR-1AL-0809 and Bajaj Pulsar black coloured motorcycle bearing registration No. JH-11G-3610 were recovered from the house of Amar Chaudhary. Thereafter they conducted raid in the house of Raja Ashrafi where they found a Hero Honda Passion Pro black coloured motorcycle bearing registration No. BR-21H-3933 in which word "CRPF" was mentioned. At that time, Raja Ashrafi was also found absconding from his house. Thereafter further raid was conducted in the house of Md. Afzal, S/o Akbar Miyan and he was also found absconding and on search a Hero X-treme motorcycle without number plate was recovered from his house. It has further been submitted that their family members were found in the house but they could not produce any legal and valid document with regards to the alleged recovered motorcycles. Thereafter on further inquiry made by the police, the villagers disclosed the fact relating to the above thing to the informant that the co-villager namely Amar Chaudhary was regularly and habitually indulged in

committing theft of motorcycles and he used to sell the stolen motorcycles in low price among the villagers of the locality. With the above allegation, the informant has submitted his self statement in the police station and on the basis of his self statement on his official capacity (S.I., Sri Subhash) Officer-In-Charge, Satgawan, the aforesaid case has been registered being Satgawan P.S. Case No. 85/2013 dated 23.11.2013 under Sections 413, 414 IPC against the accused persons named above.

The police after completing the investigation has submitted the charge-sheet under the above sections. The trial court has also framed charge under Sections 411/ 413/ 414 IPC and the case has been committed to the court of Sessions to which the appellant has pleaded innocence and claimed to be tried.

4. To substantiate the charges, the prosecution has examined altogether 11 witnesses.

5. P.W.-1, Mahesh Kumar Das, is a police constable and also a member of the raiding party.

6. P.W.-2, Sri Subhash, is the informant and Officer-in-Charge of Satgawan P.S. In para - 11 of his deposition, he has stated that the accused persons have no criminal history.

7. P.W.-3, Jagdish Kumar Mahto, is also a police constable and a member of the raiding party.

8. P.W.-4, Mukesh Kumar Jha, is also a police constable. In para - 7 of his deposition, he has stated that

during raid, the Officer-in-Charge was not with them, he was in police station. In para - 9, he has stated that the I.O has not taken his statement.

9. **P.W.-5, Kamal Kishor Rajak**, ASI, Koderma Police Station, who is also an I.O of the case and has deposed that none of the villagers have recorded their statement as a witness and all the witnesses are police personnel.

10. **P.W.-6, Turan Topno**, ASI, Koderma Police Station, has deposed that he has not taken the statement of any witnesses. He has investigated the matter and submitted the charge-sheet.

11. **P.W.-7, Prabhu Mahra**, is a constable and he has been declared hostile.

12. **P.W.-8, Md. Ibrar**, ASI, Koderma Police Station, and a seizure list witness, who has deposed in his cross-examination, in para - 2 that no article has been seized before him and on instruction, he has put his signature on a plain paper.

13. **P.W.-9, Meghan Chaudhary**, ASI, Koderma Police Station, is also a seizure list witness and he has deposed that on instruction, he has written the statement and nothing has been seized before him.

14. **P.W.-10, Krishnakant Kumar**, ASI, Koderma Police Station, is also a seizure list witness and he has been declared hostile.

15. **P.W.-11, Moulin Hembrum**, has been declared hostile.

16. The trial Court, after recording the evidence of witnesses, cross-examination, and the statement of the accused person under Section 313 Cr.P.C, has found the appellant guilty and convicted him for the offence punishable under sections 413/ 414 IPC of the Indian Penal Code.

17. It has been submitted by the learned counsel for the appellant that the appellant has been acquitted for the offence under Section 411 IPC and he has been wrongly been convicted under Sections 413 IPC, as there is no factual matrix, suggesting that the appellant is a habitual offender. So far as conviction under Section 414 IPC is concerned, since seizure itself has not been proved, as such conviction under the said offence is also bad in law.

18. On the other hand, learned counsel for the State has supported the judgment of conviction and order of sentence.

19. Having heard learned counsel for the parties and from perusal of the evidences, as produced in the court below, it appears that the seizure itself is doubtful. Further, the appellant has been acquitted for the offence under Section 411 IPC. There is no evidence on record whatsoever, regarding appellant being a habitual offender, which is *sine qua non* for the conviction under Section 413 IPC.

20. In view of above discussion, the conviction of the appellant for the offence under Section 413 IPC is bad in

law and the same is, hereby, set aside. So far as conviction for the offence under Section 414 IPC is concerned, since the seizure itself is doubtful and there is no material to suggest that seized articles are theft articles and as such, the conviction under the said section is also bad in law. Accordingly, the judgment of conviction and order of sentence dated 20.12.2021 passed in S.T. No.03 of 2016 is, hereby, quashed and set aside, so far as the present appellant is concerned.

21. In the result, the appeal stands allowed and disposed of.

22. The appellant is on the bail, hence, he is discharged from the liability of bail bond.

23. Let the Trial Court Records be sent back to the Court concerned forthwith, along with the copy of this Judgment.

(Rajesh Kumar, J.)

Jharkhand High Court, Ranchi
Dated, the 20th April, 2026

Chandan/- NAFR
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