

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J) No.123 of 2019

[Against the Judgment of conviction and Order of sentence dated 16.01.2019, passed by the learned Additional Sessions Judge - XII, Hazaribag in Sessions Trial No.74 of 2016, arising out of Keredari P.S. Case No.80 of 2014 (G.R. No.4335 of 2014)]

1. Ruplal Sao, Age about 27 years, Son of Mahant Sao, Resident of Sakin-Koyad, P.O & P.S. Tandwa, Dist. - Chatra.
 2. Ranjeet Sao @ Ranjeet Kumar Sao, aged about 24 Years, S/O Koyal Sao, Residence of Resident of Sakin - Koyad, P.O & P.S Tandwa, Dist. - Chatra,
 3. Umesh Sao, Age about 23 Years, S/O Ramkumar Sao, Resident of Sakin - Gholtaveer Tola, P.O & P.S. Keredari, Dist. - Hazaribag
 4. Lakhan Sao, Age about 40 Years, S/O Ram Kumar Sao, Resident of Sakin - Pachra, P.O & P.S. Keredari, Dist. - Hazaribag.
- **Appellants**

Versus

The State of Jharkhand **Respondent**

PRESENT

HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellants : Mr. Ashok Kr. Sinha (4), Advocate
For the State : Mr. Anup Pawan Topno, A.P.P

Order No.07/ Dated: 21st April, 2026

1. Heard Mr. Ashok Kumar Sinha, learned counsel for the appellants and Mr. Anup Pawan Topno, learned A.P.P.
2. The present appeal is directed against the Judgment of conviction and order of sentence dated 16.01.2019, passed by the learned Additional Sessions Judge - XII, Hazaribag, in Sessions Trial No.74 of 2016, arising out of Keredari P.S. Case No.80 of 2014 (G.R. No.4335 of 2014), whereby the appellants have been convicted under Sections 414/ 34 of the Indian Penal Code (IPC) and have

been sentenced to undergo rigorous imprisonment for three years with fine of Rs.5,000/- (Rupees five thousand only) each and in default of payment of fine, they have further been directed to undergo S.I for three months.

3. The prosecution story, in short, is based on the written application of informant Ghanshayam Prasad Sah wherein it has been alleged that in course of investigation of Tandwa P.S Case No. 101/14, being officer-in-charge of Tandwa P.S., he has arrested accused Ruplal Sao and on his disclosure one stolen black colour Hero-Honda motorcycle No.JH-02V-6257 and one stolen black colour tempo without number plate were recovered from the house of Ruplal Sao. On demand, no paper regarding the recovered articles was produced. Accordingly, the recovered articles were seized in the presence of two independent witnesses and a seizure list was prepared. It has further been alleged that Ruplal Sao in his confessional statement has disclosed that the alleged stolen motorcycle and tempo were handed over to him by one Umesh Sao for the purpose of selling and the accused Umesh Sao and Ranjeet Sao had stolen the same from somewhere.

On the basis of above written application of the informant, Keredari P.S. Case No.80 of 2014 has been registered under Sections 414/ 34 IPC and the police, after completing the investigation has submitted the charge-sheet under Sections 413, 414 & 34 IPC and the trial court has framed charge under Sections 413/34, 414/34 IPC

against the present appellants. Thereafter, the case has been committed to the court of Sessions to which the appellants have pleaded innocence and claimed to be tried and accordingly, the trial has commenced.

4. To substantiate the charges, the prosecution has examined altogether 09 witnesses and their depositions, in short, are as follows:-

5. **P.W.-1, Kesho Yadav** is a constable and member of police party. He has supported the case of the prosecution.

In cross-examination, he has stated that he has proved the seizure list but cannot say the number of the vehicle.

6. **P.W.-2, Anil Singh**, is the officer-in-charge of the Keredari Police Station and has supported the case of the prosecution.

During cross-examination, he has deposed that he did not tell the investigating officer that the seized vehicles are theft one. There was no mark on the seized vehicles.

7. **P.W.-3, Ghanshyam Prasad Sao**, is the informant of the case. He has stated that he has conducted the search. He has taken the statement of the accused and recovered the theft articles.

In cross-examination, he has deposed that seized articles were not sealed. He does not know from where the articles have been recovered and also not inquired about the same.

8. **P.W.-4, Nityanand Das** is a police constable. He has

stated that during search, nobody was arrested. He does not identify the accused.

In his cross-examination, he has stated that he could not say about the boundary of the place of occurrence.

9. P.W.-5, Ranjeet mahto, is also a police personnel. He has identified the accused and proved the seizure list.

In cross-examination, he has admitted that the seized articles were recovered from an open space and not from any house and he did not know the description of and from where the seizure has been made.

10. P.W.-6, Dinesh Kumar @ Dineshwar Kumar Sao, P.W.-7, Shivnarayan Sao are the independent witnesses and they have been declared hostile.

11. P.W.-8, Mohi Prasad, is also a police personnel and he has supported the prosecution story.

In cross-examination, he has stated that he could not say the place of from where the seizure has been made.

12. P.W.-9, Philip Topno, is A.S.I posted in Keredari Police Station. He has recorded the statement of the informant as well as other police personnel and the independent witnesses.

In cross-examination, he has stated that he has not seized the articles. He has stated that he had not recorded the statement of the nearby persons of the place of occurrence.

13. On consideration of above materials on record, the trial Court has found the appellants guilty for the offence

under Sections 414/34 IPC, presuming that the seized articles were theft articles, as because the accused persons have failed to prove their title over the seized articles and sentenced them, as stated above.

14. Being aggrieved by the aforesaid judgment of conviction, the appellants have preferred the present appeal.

15. Having heard learned counsel for the parties and from perusal of record, it appears that the trial court has convicted the appellants for the offence under Sections 414/34 IPC, presuming that the seized articles were theft articles, as because the accused persons have failed to prove their title over the seized articles.

16. Since the appellants have been convicted under Sections 414 IPC, it is necessary to scrutinize the essential ingredients of the said offence, which are as follows :-

- (i)** the property in question is stolen property;
- (ii)** the accused has knowledge or reasons to believe that such property was stolen property; and
- (iii)** the accused voluntarily assisted in concealing or disposing of or making away with such property.

17. Thus, in order to prove a case under Section 414 IPC, there has to be a theft report in connection with the stolen property. In the present case, such theft report has not been produced by the prosecution.

In the present case, the onus has been shifted upon

the accused persons to prove that the seized articles were not the stolen articles. This very basis of conviction is fallacious and contrary to the law.

Thus, the onus lies upon the prosecution to prove the fact that the seized articles are the stolen one. In the present case, no such material has been brought on record by prosecution that the seized articles are the stolen articles.

18. Without going into other materials, brought on record, this Court finds that the conviction of the appellants is wholly without any basis, as the prosecution has failed to prove that the seized articles are the stolen articles.

19. In view of above discussions, the Judgment of conviction and order of sentence dated 16.01.2019, passed by the learned Additional Sessions Judge - XII, Hazaribag, in Sessions Trial No.74 of 2016 is, hereby, quashed and set aside.

20. In the result, the appeal stands allowed and accordingly disposed of.

21. The appellants are on bail, hence, they are discharged from the liability of bail bond.

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

(Rajesh Kumar, J.)