

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 148 OF 2000

SOHAIL MIAN

Appellant (s)

VERSUS

STATE OF BIHAR

Respondent(s)

(With office report)

Date: 28/07/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE S.H. KAPADIA

For Appellant(s)

Mr. P.S. Mishra, Sr. Adv.

Mr. Upendra Mishra, Adv.

Mr. T.H. Vardhan, Adv.

Mr. Dhruv Kumar Jha, Adv.

Mr. Amitesh Chandra Mishra, Adv.

Mr. Ravi Chandra Prakash, Adv.

Mr. Anil K. Jha,Adv. Mrs. Alka Jha, Adv.

For Respondent(s)

Mr. Kumar Rajesh Singh, Adv.

Mr. B.B. Singh,Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

The appeal is allowed, conviction and sentence of the appellant u
nder

Section 414 IPC are set aside and he is acquitted of the said charge as well.

The

appellant, who is on bail, is discharged from the liability of bail bonds.

[Charanjeet Kaur]

Court Master

[Om Prakash]

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 148 OF 2000

Sohail Mian

.. Appellant(s)

Versus

State of Bihar

.. Respondent(s)

)

O R D E R

Heard learned counsel for the parties.

The sole appellant was convicted by trial Court under Section 411 of the Indian Penal Code (for short, IPC) and sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs. 3,000/-, in default to undergo further simple imprisonment for a period of one year. He was further convicted under Section 201 IPC and sentenced to undergo rigorous imprisonment for a period of one year. The sentences however, were ordered to run concurrently. On appeal being preferred, the High Court set aside the convictions of the appellant under Section 411 as well as 201 IPC but convicted the appellant under Section 414 IPC and awarded sentence of imprisonment for a period of three years against him. Hence this appeal by special leave.

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Shri P.S. Misra, learned senior counsel appearing in support of the appeal

submitted that the High Court was not justified in convicting the appellant under Section 414 IPC in absence of any charge for the same and thereby the appellant has been prejudiced in his defence. It has been further submitted that neither there is any evidence to show that the

appellant was in possession of the stolen property at any point of time nor he had knowledge that the property in question was subject matter of theft, as such the conviction under Section 414 IPC becomes unwarranted.

First we proceed to consider the second point raised by learned counsel. In this

regard Shri Mishra has taken us through the evidence of P.W.8-Ramji Sharma who is the main witness in the case and in our view it cannot be said by any stretch of imagination that

according to the evidence of P.W.8, it was the appellant who made over jeep in question, which was subject matter of the theft, to P.W. 8 for the purposes of dismantling rather the same

was made over by other two accused persons. There is nothing to show in the evidence of

P.W.8 that the appellant had knowledge that the jeep in question was stolen property. Thus,

we hold that there is no credible evidence to connect the appellant with the crime under Section

414 IPC. In view of our answer in relation to second point, we are of the opinion that it is not

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necessary to go into merit of the first point raised by the learned counsel, as such we re
frain

ourselves from recording any opinion thereon.

For the foregoing reasons, the appeal is allowed, conviction and sentence
of the

appellant under Section 414 IPC are set aside and he is acquitted of the said charge as
well.

The appellant, who is on bail, is discharged from the liability of bail bonds.

B.N. AGRAWAL]

.....J[

[S.H. KAPADIA]

.....J

NEW DELHI,

JULY 28, 2005