



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Date of decision: 03.09.2026

1.

Manjeet

Versus

State of Haryana

CRA-S No.7-SB of 2008

...Appellant

...Respondent
2.

Devender

Versus

State of Haryana

CRA-S No.28-SB of 2008

...Appellant

...Respondent
3.

Vinod @ Sagar

Versus

State of Haryana

CRA-S No.29-SB of 2008

...Appellant

...Respondent
4.

Bijender

Versus

State of Haryana

CRA-S No.172-SB of 2008

...Appellant

...Respondent
5.

Sandeep

Versus

State of Haryana

CRA-S No.289-SB of 2008

...Appellant

...Respondent



CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present :- Mr. Atull Dhankhar, Advocate and
Mr. Bijender Dhankar, Advocate
for the appellants in CRA-S Nos.7-SB & 289-SB of 2008.

Mr. Aditya Pandit, *Amicus Curiae*
for the appellants in CRA-S Nos.28-SB, 29-SB & 172-SB of 2008.

Ms. Sheenu Sura, DAG, Haryana
for the respondent-State in all the cases.

MANDEEP PANNU, J. (Oral)

1. The above-said five appeals have been filed by the appellants against the judgment of conviction dated 15th December 2007 and order of sentence dated 17th December 2007, whereby the appellants have been convicted and sentenced as under:-

Under Section	Imprisonment awarded	Fine	Imprisonment in default of payment of fine
Section 412 IPC	R.I. for 07 years each	Rs.20,000/- each	Imprisonment for 06 months each

2. Since all the above-said five appeals arise out of the common judgment passed in case FIR No.357 dated 18th November 2005, registered under Sections 395/397/420 IPC and Section 25 of the Arms Act, at Police Station Samalkha, and decided by learned Additional Sessions Judge, Panipat, therefore, all these appeals shall be decided together by this common judgment.

3. Briefly stated the prosecution story is that Bijender, son of Attar Singh, got recorded his statement stating that he was a resident of village



Patti Kalyana and was serving as a salesman at Blue Jay Filling Station, Samalkha, for the last about one year. He was on duty since 9.00 a.m. on 17th November 2005 till 9.00 a.m. on 18th November 2005, along with Ganga Swaroop, son of Sukan Chand, and Bijender Singh, son of Subhash Gujjar. After 2.00 a.m., Ganga Swaroop and Bijender Singh had slept in the godown near the office of the petrol pump. He was on duty at the petrol pump and at about 3.15 a.m., one new white-coloured Maruti car bearing registration No. DL-6CK-4252 (800 CC) came there, in which six young boys were sitting. One of them, the driver, alighted from the car and got petrol worth ₹700/- filled in the petrol tank of the car. Thereafter, when he asked for the cost of the petrol, the driver of the Maruti car, who was wearing a lining blanket, took out a pistol and pointed the same at his chest. After that, all of them alighted from the car, surrounded him and took him to the office of the petrol pump at the point of pistol. They searched him, took out the key of the drawer, opened the same and removed currency notes amounting to ₹15,000/- therefrom. They demanded the key of the safe and, after showing the pistol and knives, threatened to kill him. Thereafter, they conducted a search of the office and took away a 29-inch colour television of Samsung. They were of the age between 20 and 25 years. He further stated that after they went away, he woke up Ganga Swaroop, Bijender Singh and the owner of the petrol pump and telephoned the police station. He further stated that he could identify all those boys if they were produced before him. On the basis of the aforesaid statement, recorded on 18th November 2005 by SI Ram Kishan, an offence under



Sections 395/397 of the IPC was found to have been committed and, accordingly, the FIR was registered.

4. After registration of the FIR, investigation was conducted. During the course of investigation, PW14 Ram Kishan, the Investigating Officer, recorded the statement of witness Shamsher Singh. Thereafter, in search of the culprits, he proceeded to village Atta, where he found one Maruti car bearing registration No. DL-6CK-4252 parked in front of the house of Prabha. On seeing the police party, five/six persons got out of the said car and ran towards village Hathwala. He immediately flashed a wireless message to Police Station Samalkha seeking additional police force. Thereafter, the police party chased the culprits. The culprits entered the agricultural fields of Jai Bhagwan and, in the meantime, DSP Pradeep and other senior police officers also reached there along with additional force. Ved Singh, Numberdar, also joined the investigation. The police cordoned off the agricultural fields of Jai Bhagwan. Four different police parties were constituted by DSP Pradeep. Three police parties entered the agricultural fields through three different sides, whereas the fourth party remained standing outside. In the cross-firing between the culprits and the police parties, one of the culprits, namely Sandeep, son of Mohinder Singh, died at the spot. The remaining three culprits, namely Manjeet, Bijender and Sandeep, son of Kanshi Ram, were apprehended by Ram Phal, ASI, and his companions. The deceased was searched and thereafter, all the accused were arrested. The accused suffered disclosure statements admitting their involvement in the above-said crime. Thereafter, Maruti car



bearing registration No. DL-6CK-4252, along with one Samsung TV set, was taken into possession vide recovery memo Ex.PW10/A. The complainant Bijender Singh, thereafter, presented a receipt Ex.PB pertaining to the purchase of the TV set, which was seized vide recovery memo Ex.PW6/A. After completing the investigation, the police challan under Section 173 of the Code of Criminal Procedure was presented against the accused persons.

5. It is further the case of the prosecution that on 12th March 2006, SI Bijender Kumar, Traffic Incharge, Samalkha, was posted as SHO, Police Station Samalkha. On that day, he came to know that accused Davinder and Vinod had already been arrested in the present case on 11th March 2006. Both the accused were joined in the investigation by him and, during interrogation, they suffered disclosure statements. Davinder suffered disclosure statement Ex.PW15/A, admitting his involvement in the present case and stating that he had kept concealed a spring-actuated knife beneath the bushes. In pursuance of the said disclosure statement, Davinder got the said knife recovered. On the same day, Vinod also suffered a disclosure statement admitting his involvement in the crime and stating that he had kept concealed a country-made pistol in the agricultural fields, and got the same recovered. Thereafter, supplementary challan was presented against them. The supplementary challan in *State versus Davinder etc.* was consolidated with the main case, *State versus Bijender etc.*, by learned lower Court. Thereafter, all the accused were charge-sheeted under Sections 395/397/417 of the IPC, to which they pleaded not guilty and claimed trial.



6. In order to prove its case, the prosecution examined as many as 18 witnesses. Thereafter, statements of all the five accused were recorded under Section 313 Cr.P.C., wherein they pleaded not guilty and claimed trial. However, no evidence in defence was adduced by the accused persons.

7. Learned trial Court, after hearing learned counsel for the parties, learned APP for the State and learned defence counsel, observed that the main material witness, namely PW6 Bijender Singh, complainant in the present case, had not supported the case of the prosecution and had specifically stated that the accused present in the Court were not the culprits who had committed the crime. He was declared hostile by the prosecution. The said witness also denied having stated that he could identify the culprits. Learned trial Court further observed that the prosecution had failed to produce any other eyewitness to the aforesaid dacoity. It was also observed that the prosecution had failed to produce any cogent evidence to prove that the accused had placed a fake number plate upon the Maruti car used in the commission of the crime, for which they had been charge-sheeted under Section 417 IPC. Accordingly, it was held that the evidence on record did not establish the offences under Sections 395/397/417 IPC against the accused persons.

8. However, learned trial Court observed that there was sufficient evidence on record to show that the accused had retained the property robbed in the aforesaid dacoity committed on 18th November 2005. In this regard, reliance was placed upon the testimony of PW14 Ram Kishan, the Investigating Officer, who deposed that when he reached in front of the



house of Prabha at village Atta, the accused persons got out of the said car and ran towards village Hathwala. He duly proved the recovery of the said Maruti car along with the television set vide recovery memo Ex.PW10/A. He also identified the accused present in the Court as the culprits.

9. Learned trial Court further relied upon the testimony of PW10 Dharam Singh, who was also a witness to the recovery of the said car along with the television set. He testified that the complainant Bijender Singh had identified the television set lying in the car as being part of the property robbed from the petrol pump. He also identified the accused present in the Court as the culprits. Learned trial Court further observed that the recovery of the aforesaid robbed television set had been effected immediately after the dacoity on 18th November 2005. The accused had failed to explain as to how they came into possession of the said robbed property. Thus, in the given facts and circumstances, it was held that the evidence on record clearly established that the accused had intentionally retained the stolen property belonging to the aforesaid dacoity. Accordingly, the charge under Section 412 IPC was held to be proved. The learned trial Court further observed that, in terms of Section 222 Cr.P.C., an accused can be convicted under Section 412 IPC even though he had not been formally charged with the said offence. Accordingly, the accused were convicted under Section 412 IPC.

10. Feeling aggrieved by the above-mentioned judgment of conviction, all the five convicts have filed five separate appeals, as detailed above.

11. Learned Amicus Curiae for appellants Vinod and Devender



argued that the conviction of the appellants under Section 412 IPC is not sustainable, as the prosecution has failed to establish their connection with the alleged dacoity or with the property allegedly robbed in the said occurrence. It was submitted that the complainant Bijender Singh, when examined as PW6, did not identify the appellants as the persons who had committed the robbery at the petrol pump and categorically stated that the accused present in the Court were not the persons who had committed the offence. Learned counsel further argued that the alleged recovery of the television set was not effected from the possession of either of the appellants. The television was allegedly recovered from a vacant and abandoned Maruti car, and, therefore, there was no evidence of conscious possession so as to attract the provisions of Section 412 IPC. It was also submitted that there was no test identification parade conducted by the prosecution and no independent witness was associated with the proceedings. Further, no photographs of the scene of crime, the deceased, the recovered car or the television were taken.

12. Learned counsel also submitted that the prosecution had itself put forth the theory of a fake encounter, wherein Sandeep, son of Mahender Singh, was allegedly killed by DSP Pardeep Kumar, and the circumstances surrounding the alleged encounter cast serious doubt upon the prosecution version. It was argued that the complainant was not present at the place where the alleged recovery proceedings were conducted and was not a witness to such proceedings. The alleged make and receipt of the television, stated to have been purchased from Arya Furniture, were



subsequently introduced through the supplementary statement of the complainant so as to fill up the lacuna in the prosecution case.

13. It was further argued that the prosecution failed to prove that the number plate of the recovered car was fake or had been changed by the accused to facilitate commission of the offence. Learned counsel also pointed out the discrepancies in the statements of PW10 Dharam Singh, PW11 Prem Singh and PW14 Ram Kishan. It was, accordingly, submitted that learned trial Court had failed to properly appreciate the evidence on record and that the conviction of the appellants under Section 412 IPC, based on such evidence, was unsustainable and liable to be set aside.

14. Learned counsel for appellants Sandeep, Manjeet and Bijender argued that learned trial Court, vide judgment dated 15th December 2007, having acquitted the appellants and their co-accused of the charges under Sections 395/397/417 IPC, had nevertheless convicted them under Section 412 IPC and sentenced them to undergo rigorous imprisonment for 07 years and to pay a fine of ₹20,000/- each, with further imprisonment for six months in default of payment of fine. It was argued that the conviction under Section 412 IPC is based merely on surmises and conjectures and is otherwise illegal, particularly when no charge under Section 412 IPC had been framed against any of the accused. Learned counsel contended that the learned trial Court had overlooked, misinterpreted and misconstrued the evidence on record and had wrongly concluded that the appellants were liable to be convicted under Section 412 IPC.

15. Learned counsel further argued that the prosecution had failed



to establish that the appellants were party to the alleged dacoity or that the alleged stolen television had been recovered from the conscious possession of any of the appellants. It was submitted that the complainant Bijender Singh, when examined as PW6, specifically stated that the persons present in the Court as accused were not the persons who had committed the robbery at Blue Jay Petrol Pump on 18th November 2005 at about 3.13 a.m. Although the said witness was cross-examined by learned Public Prosecutor at length after being declared hostile, nothing incriminating against the appellants could be elicited from his testimony. Thus, according to learned counsel, once the complainant had specifically exonerated the appellants, there was no occasion for learned trial Court to convict them under Section 412 IPC.

16. Learned counsel further submitted that the testimony of PW14 SI Ram Kishan, the Investigating Officer, also did not establish conscious possession of the stolen television by any of the appellants. It was specifically pointed out that, according to PW14 himself, the television was recovered from a vacant and abandoned Maruti car lying in village Atta and, at the time of the alleged recovery, at about 5.00–5.30 p.m., no person was sitting in the said car. Thus, the alleged recovery of the television could not be said to be from the conscious possession of any of the appellants. It was, accordingly, argued that the evidence on record was insufficient to sustain the conviction of the appellants under Section 412 IPC and that the impugned judgment of conviction and order of sentence were liable to be set aside.



17. Per contra, learned State counsel has argued that the prosecution has been able to prove on record the recovery of the robbed television set and the Maruti car from the possession of the accused/appellants. It was submitted that all the appellants have admittedly been acquitted of the offences under Sections 395 and 397 IPC and also of the offence under Section 417 IPC, relating to the allegation of use of a fake registration number on the car. However, the recovery of the robbed car and the television set lying therein stands duly proved on record through the sworn testimony of PW14 Ram Kishan, the Investigating Officer, which has been duly corroborated by the testimony of PW10 HC Dharam Singh. Learned State counsel submitted that the recovery was effected immediately after the commission of the dacoity and that appellants Manjeet, Sandeep and Bijender were found sitting in the robbed car. On seeing the police party, they abandoned the said car and entered the adjoining agricultural fields along with another accused, namely Sandeep, son of Mahender Singh, who was subsequently killed in the encounter. The Maruti car along with the robbed television set was accordingly recovered from the spot.

18. As regards appellants Vinod and Devender, learned State counsel submitted that although they were arrested subsequently on 11th March 2006, their involvement in the present crime was disclosed by their co-accused and, thereafter, both of them suffered disclosure statements wherein they themselves disclosed their involvement in the present offence. It was, therefore, argued that merely because the complainant had not



supported the prosecution case with regard to the actual commission of dacoity, the same would not efface the effect of the recovery of the robbed articles immediately after the occurrence. According to learned State counsel, the circumstances appearing on record, particularly the immediate recovery of the robbed car and television set and the conduct of the accused in abandoning the car on seeing the police party, clearly establish their connection with the stolen property. It was, accordingly, submitted that the learned trial Court had rightly appreciated the evidence on record and had rightly convicted the appellants under Section 412 IPC.

19. I have heard learned Public Prosecutor for the State as well as learned counsel for the appellants and have carefully gone through the entire record of the case, including the oral as well as documentary evidence led by the prosecution and the judgment of learned trial Court.

20. The prosecution case, insofar as the present appeals are concerned, primarily rests upon the alleged recovery of the Maruti car and the Samsung television set and the circumstances in which the said articles were recovered. PW2, Shopkeeper, Arya Furniture, has proved the receipt Ex.PB relating to the sale of a Samsung television set to Shamsher Singh Gogi. His testimony, however, only establishes the sale of the television set and does not connect any of the appellants with the said television set. PW3 Om Kumar has deposed that he was the registered owner of Maruti car bearing registration No. HR-10G-8297 and that the said car had been taken away by some unidentified persons. He proved the order of release of the vehicle on superdari, while the FIR lodged in respect of the said occurrence



has been placed on record as Mark A. Significantly, however, the car allegedly recovered by the police from village Atta was bearing registration No. DL-6CK-4252. Though the prosecution has sought to explain the discrepancy by alleging that a false number plate had been affixed upon the car, that allegation has not been established by reliable evidence, the appellants having already been acquitted of the offence under Section 417 IPC. There is no satisfactory evidence on record, such as the chassis number, engine number or any other identifying feature, to conclusively establish that the car bearing registration No. DL-6CK-4252, which was recovered by the police, was in fact the same vehicle bearing registration No. HR-10G-8297 belonging to PW3.

21. The testimony of PW6, the complainant, also assumes considerable significance. The complainant has not supported the prosecution case regarding the identity of the assailants and was declared hostile. He categorically stated that the accused present in Court were not the persons who had committed the robbery at the petrol pump. Although he admitted his signatures upon the statement Ex.PA and the recovery memo relating to the receipt Ex.PB, his testimony does not furnish any identification of the appellants as the persons who had committed the occurrence. Thus, the prosecution has failed to obtain substantive support from the complainant on the most material aspect of the case, namely, the identity and involvement of the persons who allegedly committed the robbery.

22. PW10 HC Dharam Singh is a witness to the recovery



proceedings. He stated that a Maruti car was found parked near the house of Prabha in village Atta and that five/six persons came out of the car on seeing the police party and ran away. He further stated that the complainant Bijender Singh subsequently identified the television set lying in the car as part of the property robbed from the petrol pump and that the car and television set were thereafter taken into possession vide recovery memo Ex.PW10/A. PW14 Ram Kishan, the Investigating Officer, has also deposed regarding the recovery of the car and television set. According to him, after the police party reached village Atta, five/six persons came out of the car and fled towards village Hathwala, whereafter the police party chased them. He further deposed regarding the encounter in the agricultural fields and the apprehension of some of the accused. PW14 subsequently took the car along with the television set into possession vide recovery memo Ex.PW10/A. PW15 SI Bijender Kumar relates to the subsequent arrest of appellants Vinod and Devender and the disclosure statements allegedly suffered by them.

23. Coming first to the case of appellants Manjeet, Bijender and Sandeep, the prosecution seeks to connect them with the recovered car primarily on the basis of the circumstance that they were allegedly amongst the persons who were found sitting in the car and who fled on seeing the police party. It is true that PW10 and PW14 have deposed about the presence of five/six persons near or in the car and their subsequent fleeing from the spot. However, the mere presence of some persons near an abandoned vehicle, particularly when the prosecution has failed to establish



by cogent and unimpeachable evidence that the vehicle so recovered was the very same vehicle which had been taken away in the occurrence, cannot by itself furnish a safe basis for recording a finding of guilt under Section 412 IPC. The prosecution was required to establish not merely the recovery of an article but also the necessary link between the recovered property, the alleged dacoity and the particular accused. That link is conspicuously missing in the present case.

24. There is yet another important circumstance which cannot be overlooked. The alleged recovery was made from a place where the car was found parked. The evidence of PW10 and PW14 does not establish that the recovered car and television set were in the conscious and exclusive possession of any particular appellant. No incriminating article was recovered from the personal possession of appellants Manjeet, Bijender or Sandeep. The prosecution has also not produced any independent witness from village Atta to corroborate the alleged circumstances in which the car was found or the identity of the persons who allegedly fled from the spot. Even the prosecution evidence regarding the number and identity of the persons present near the car is not consistent with sufficient precision to safely attribute the possession of the recovered articles to any particular appellant.

25. More importantly, the very foundation for invoking Section 412 IPC is that the property must be proved to be stolen property transferred by the commission of a dacoity and that the accused must be shown to have received or retained the same with the requisite knowledge



or reason to believe that it had been so transferred. The Hon'ble Supreme Court has emphasised that the requirement of knowledge that the property was the proceeds of a dacoity is an essential ingredient of Section 412 IPC and that mere proof of possession of stolen property does not, in every case, establish the offence under Section 412. In the present case, the prosecution has failed to establish beyond reasonable doubt both the identity of the recovered car as the vehicle allegedly taken away in the occurrence and the nexus of the recovered television set with the possession of any particular appellant. Once the complainant himself has failed to identify the assailants and the appellants have already been acquitted of the substantive offences under Sections 395 and 397 IPC, the recovery by itself cannot be elevated to the status of conclusive proof of their participation in the dacoity or their conscious retention of property knowing it to be the proceeds of dacoity.

26. The position becomes still weaker in the case of appellants Vinod and Devender. Admittedly, they were arrested subsequently on 11.03.2006, much after the alleged occurrence and the recovery of the car and television set. There is no evidence that either Vinod or Devender was present at the petrol pump at the time of the occurrence or was amongst the persons who allegedly fled from the car in village Atta. Their names are not established through the testimony of the complainant, who did not identify the assailants in Court. Their subsequent involvement has essentially been sought to be established through their disclosure statements recorded by PW15. However, the mere disclosure of an accused admitting his



involvement in the crime cannot, by itself, constitute substantive evidence of such involvement. The evidentiary value of a disclosure statement is confined to that part which leads to the discovery of a fact in accordance with law.

27. It is true that PW15 has deposed regarding the disclosure statements of Vinod and Devender and the consequent recovery of a spring-actuated knife from Devender and a country-made pistol from Vinod. However, neither of these articles is the property allegedly robbed from the petrol pump. There is no satisfactory evidence connecting either of these weapons with the commission of the alleged dacoity. The recoveries, therefore, cannot supply the missing link between these appellants and the recovered car or television set. In particular, there is no evidence to establish that either Vinod or Devender had at any point been in possession of the car or television set or had received or retained the same knowing or having reason to believe that the articles had been transferred by the commission of a dacoity.

28. Consequently, the prosecution has failed to prove the charge under Section 412 IPC against the appellants beyond reasonable doubt. The appellants, namely Manjeet, Bijender, Sandeep, Vinod and Devender, are accordingly entitled to the benefit of doubt and are acquitted of the offences punishable under Section 412 IPC. The impugned judgment of conviction and order of sentence, to the extent challenged in the present appeals, therefore cannot be sustained and are set aside.

29. The appeals are accordingly allowed.



30. All pending applications, if any, also stand disposed of.

03.09.2026
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(MANDEEP PANNU)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No