

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR No. 392 of 2015(O&M)

Date of Decision : 06.02.2015

Jaswinder Singh

.....Petitioner

Versus

The State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr.M.S.Rai, Advocate
for the petitioner.

- i. Whether Reporters of local papers may be allowed to see the judgment?
- ii. To be referred to the Reporters or not?
- iii. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This petition has been filed against the concurrent conviction of the petitioner under Section 411 IPC.

The case set up by the prosecution is that the police got a secret information that the petitioner is in the habit of stealing and then selling vehicles and if a Naka is laid, he would be nabbed with a stolen motor cycle. The Naka was set up and the police party saw a motor cyclist coming from Jalalabad side and on seeing the police party he tried to backtrack but was nabbed and could not explain from where he had got the motor cycle or its ownership. PW3 Narinder Pal Singh subsequently found out about the

recovery of a motor cycle on account of a news report and came to the police station and informed that the motor cycle had been stolen about two months ago but he had not lodged an FIR since he was trying to locate it on its own. He duly proved the ownership of the said motor cycle in his name. It was in these circumstances that the Courts below did not convict the petitioner under Section 379 IPC but only under Section 411 IPC and awarded him sentence of one year.

Learned counsel has argued that once PW3 had not reported that his motor cycle was stolen, there was no question of any theft and that of invocation of Section 411 IPC. I am afraid I cannot agree with the proposition that an FIR is a sine qua non for proof of commission of theft. Once Narinder Pal Singh was able to prove that the motor cycle belonged to him and that he had not given it to the petitioner, no illegality can be found with the finding of the Court convicting the petitioner under Section 411 IPC. Learned counsel has then argued that the petitioner is a first offender and, therefore, pray for some leniency in the sentence. I find that both the Courts below have considered this aspect also and thereafter awarded the sentence. Therefore, this Court does not find any reason to interfere with that finding of the Courts below.

Petition is dismissed.

Since the main case has been decided, the Criminal Misc.Application, if any also stands disposed of.

(AJAY TEWARI)
JUDGE

February 06, 2015
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