

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. A-1197-MA of 2017

Date of Decision : July 19, 2017

State of Haryana

....Applicant

VERSUS

Ajay @ Subbi

.....Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. Kapil Aggarwal, Additional Advocate General, Haryana.

T.P.S. MANN, J.

The State has filed the present application under Section 378(3) Cr.P.C. for the grant of leave to appeal against the judgment dated 26.5.2016 passed by learned Additional Sessions Judge, Kaithal whereby the accused, namely, Ajay @ Subbi, respondent herein, stood acquitted of the charges under Sections 457, 411 and 413 IPC.

According to the prosecution, Dilbagh Singh, alongwith his family members, used to live in a house owned by Mahesh Soda as a tenant for the last one year. On 27.4.2014 at about 10.00 a.m., he left for Mata Vaishno Devi. Before leaving, he had locked his house carefully. On 28.4.2014 at about 9.30 a.m., his father-in-law Kali Ram noticed that locks of his house were lying broken. Goods in the house were lying scattered. Someone had entered his house on the intervening night of 27/28.4.2014

by scaling over the wall and stolen cash and jewellery. After returning, on 1.5.2014, when he was informed about all this by his father-in-law, he reported the matter to the police. Accordingly, FIR No.137 dated 1.5.2014 under Sections 457, 411 and 413 IPC was registered against the accused/respondent at Police Station City, Kaithal.

Having heard learned State counsel and on going through the impugned judgment of acquittal, this Court finds that though Kali Ram, father-in-law of complainant Dilbagh Singh had noticed on 28.4.2014 that the locks of his house were lying broken and household articles lying scattered yet he did not inform the police on 28.4.2014 itself. He remained silent till the arrival of the complainant on 1.5.2014. The delay of 3/4 days in informing the police has not been explained which makes the prosecution case highly doubtful.

According to the prosecution, the list of stolen articles was supplied by the complainant one day after he returned from Mata Vaishno Devi. If he had returned on 1.5.2014, he could have made a complete check of the stolen/missing articles from his house and supply that list on 1.5.2014 itself. However, such list was supplied only on 2.5.2014.

After conducting the investigation, the police had reported the matter as untraced but suddenly, one day someone informed the police that it was the accused who was the thief and, accordingly, he was arrested. It is claimed that a chain was recovered from him which was got identified from the complainant. There is no particular mark of

identification of any of the articles. No receipt of purchase was there. In such a situation, it cannot be said that they were recovered from him.

According to the prosecution, on 31.10.2014, the accused got recovered remaining articles. However, at that time again, no public person was joined as a witness. There is also no evidence that the accused was in the habit of receiving stolen articles.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal passed by the learned trial Court. The application is without any merit and, therefore, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

July 19, 2017
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO