

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

CRA-S-2468-2015 (O&M)
Date of Decision:-20.12.2018

Shane Alam @ Aslam

... Appellant

Versus

U.T. Chandigarh.

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Suman Preet Aulakh, Advocate for the appellant.

GURVINDER SINGH GILL, J.

1. Appellant-Shane Alam @ Aslam assails judgment dated 19.12.2014 passed by learned Sessions Judge, Chandigarh whereby the appellant has been held guilty of having committed offences punishable under Sections 413 and 473 of IPC and has been sentenced to undergo imprisonment as follows :-

Convicted under Section	Sentence imposed	In default of payment of fine
413 IPC	R.I. for 1 year & 6 months and fine of ₹ 1,500/-	Further R.I. for 1 month and 15 days
473 IPC	R.I. for 1 year & 6 months and fine of ₹ 1,500/-	Further R.I. for 1 month and 15 days

2. The case of prosecution, in nutshell, is that complainant Kulbir Singh had gone to Sector 15, Chandigarh in connection with official work on 22.5.2014 at about 5:30 p.m. on government motorcycle bearing registration No. PB65-N-4428 and had parked his motorcycle by the roadside and had

duly locked it. However, when he returned back at about 6 p.m. he found his motorcycle missing.

3. It is further the case of prosecution that on 9.7.2014, when the police was present at a *Naka* on T-point, Sector 10-11, Chandigarh, the accused who was riding a motorcycle bearing registration No.CH01-AA-6946, Make Pulsar, colour Black was stopped and who upon being asked to show documents pertaining to the motorcycle in question could not produce any documents. Upon making inquiries and upon comparing the engine and chassis number of the said motorcycle with the engine and chassis number of the stolen motorcycle, it was found that the motorcycle on which the accused was riding was the one which had been stolen from Kulbir Singh and that fake registration number plates had been affixed thereupon. Upon conclusion of investigation challan was filed. Charges were framed against the accused.
4. The prosecution, in order to substantiate allegations, has examined PW-1 Head Constable Gurdeep Singh, PW-2 MMHC Ram Niwas, PW-3 Balbir Kuar, PW-4 Constable Satnam Singh, PW-5 Kulbir Singh, PW-6 Investigating Officer, Nand Kishore and PW-7 Sub-Inspector Harpal Singh.
5. Statement of accused was recorded in terms of provisions of Section 313 Cr.P.C. wherein the entire prosecution evidence was put to the accused to enable him to explain the circumstances appearing against him but the accused denied the entire prosecution case in toto. However, no evidence was led by the accused in his defence.

6. The learned trial Court, upon considering the evidence, held that the charges framed against the accused for offences under Sections 413 and 473 IPC stood duly proved and accordingly sentenced the accused to undergo rigorous imprisonment for 1 year and 6 months, apart from fine respectively.
7. The learned counsel for the petitioner, while assailing the impugned judgment, has submitted that the case of prosecution is based solely on testimony of official witnesses and that no independent witness was ever joined despite the fact that the accused was apprehended from a busy locality i.e. at a Naka on T-point, Sector 10-11, Chandigarh. It has further been submitted that there are discrepancies in the statements of two material witnesses i.e. PW-1 Gurdeep Singh and PW-6 SI Harpal Singh and that in these circumstances, no reliance can be placed upon the evidence of prosecution and the appellant deserves to be acquitted.
8. I have considered the aforesaid submissions and have also perused record of the case.
9. The complainant Kulbir Singh has stepped into the witness box as PW-5 wherein he has stated in tune with the allegations levelled in the FIR. He has specifically stated that on 21.5.2014, he had parked his motorcycle in the market of Sector 15, Chandigarh and when he returned from the market, he found his motorcycle had been stolen and regarding which he lodged a complaint (Exhibit P-12) with the police. He has further stated that on 12.7.2014, he received a message that his motorcycle had been recovered in Crime Branch, Sector-11, Chandigarh and he visited the Crime Branch, Sector 11 Chandigarh and identified the recovered motorcycle on the basis of engine and chassis numbers.

10. PW-5 was briefly cross-examined and the only question put to him as to whether he knows who had committed the theft, to which he replied that he did not know as to who had stolen his motorcycle.
11. The material witnesses in the present case are PW-1 Head Constable Gurdeep Singh and PW-6 SI Nand Kishore, who both deposed that on 9.7.2014, when the police was present at a naka on T-point, Sector 10-11, Chandigarh, the accused who was riding a motorcycle bearing registration No.CH01-AA-6946, Make Pulsar, colour Black was stopped and who upon being asked to show documents pertaining to the motorcycle in question could not produce any documents. Upon making inquiries and upon comparing the engine and chassis number of the said motorcycle with the engine and chassis number of the stolen motorcycle, it was found that the original number of motorcycle is PB-65N-4428 and that fake registration number plates had been affixed thereupon.
12. Nothing substantial could be elicited during cross-examinations of PW-1 Gurdeep Singh and PW-6 S.I. Nand Kishore. The only discrepancy is regarding laying of "Naka" (barricading), which as per PW-1 Gurdeep Singh is stated to be 6:30 p.m. but is stated to be 7:30 p.m. as per PW-6 S.I. Nand Kishore. Such minor discrepancy would not demolish the case of prosecution, especially when both the witnesses who had been cross-examined at length, remained firm on all material aspects of the case pertaining to apprehension of accused and recovery of motor-cycle regarding which he could not produce documents and which was found to be stolen.

13. In view of the aforesaid discussion, I do not find any infirmity in the
impugned judgment and the same is hereby affirmed.
14. There is no merit in the appeal and the same is hereby dismissed.

20.12.2018
kamal

(Gurvinder Singh Gill)
Judge

Whether reasoned/speaking	Yes / No
Whether reportable	Yes / No