

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

**CRM-A-2335-MA-2016
Date of Decision: 31.08.2018**

Union Territory, Chandigarh

.....Applicant.

Versus

Satnam Singh

.... Respondent

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present: Mr. Amit Kumar Goyal, Additional Public Prosecutor
for Union Territory, Chandigarh.

T.P.S. Mann, J.

The Union Territory, Chandigarh, has filed the present application under Section 378(3) of the Code of Criminal Procedure for grant of leave to appeal against the judgment dated 25.05.2016, passed by learned Additional Sessions Judge, Chandigarh, whereby Satnam Singh, the accused/respondent, was acquitted of the charge under Section 413 IPC.

According to the prosecution, on 07.08.2015, the complainant alongwith his family left for Jammu, leaving behind a sum of Rs.3 lacs in cash in his house in Village Behlana, Chandigarh. In his absence, some unknown person stole the cash alongwith his identity card. On the basis of the statement made by the complainant, FIR was registered. During its investigation, the accused was arrested, who got recovered a motorcycle purchased by him with the stolen money as well as a sum of Rs.33,000/-.

Having heard learned Additional Public Prosecutor and on going through the impugned judgment and record, which stands requisitioned, this Court finds that the motorcycle said to have been purchased by the accused with the cash he had stolen from the house of the complainant, stood registered in the name of one Sandeep Kumar. In order to substantiate its case, the prosecution relied upon the two affidavits, Exhibits P-29 and P-41 of Sandeep Kumar wherein, he stated that the accused had paid the price but purchased the motorcycle in his name. He also stated that neither he nor his family had spent a single penny for purchase of the motorcycle. This made Sandeep Kumar as the best witness to prove the prosecution case, but neither he was examined by the prosecution nor his name was mentioned in the list of prosecution witnesses. Said Sandeep Kumar was, however, examined in defence as DW1, who deposed that he had purchased the motorcycle from his own earnings/savings. He also stated that he was forced to sign the aforementioned two affidavits relied upon by the prosecution.

According to the prosecution, the accused had verbally disclosed to the police of having purchased the motorcycle with the money stolen by him. However, no such statement was taken down in writing. Moreover, there was no independent corroboration to the alleged oral disclosure statement made by the accused. Thus, recovery of motorcycle as well as cash amount of Rs.33,000/- becomes highly doubtful.

Another improbable circumstance is the recovery of driving licence and voter's card of the complainant from the possession of the accused. Such like articles/objects were of no value for the accused. The complainant had also not stated about the missing of his driving licence. The recovery of motorcycle was effected

from an open and accessible place. This further makes the prosecution case highly improbable.

In view of the above, this Court finds that the accused has rightly been acquitted by the learned trial Court of the charge against him. The application is without any merit, and therefore, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

31.08.2018
ds

(FATEH DEEP SINGH)
JUDGE

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