

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

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**CRR-740-2019 (O&M)
Date of Decision : 26.3.2019**

Deepak

....Petitioner

vs.

State of Haryana

....Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Namit Sharma, Advocate
for the petitioner.

AJAY TEWARI, J. (Oral)

1. This revision has been filed against the order dated 4.2.2019 passed by the Sessions Judge, Panipat and held the petitioner guilty under Section 411 IPC and awarded sentence to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/-.

2. As per the allegations the complainant had parked his motorcycle outside the premises of Batra Hospital on 2.11.2011 and went inside. When he came back after 15 minutes, his motorcycle was missing from there. He lodged a report. Ultimately, during investigation the petitioner was arrested. It is stated that he made a statement admitting his guilt wherein he admitted that he had stolen the motorcycle and had changed the number plate and his disclosure led to the recovery of the stolen motorcycle. The Trial Court held him guilty and convicted him under

Section 379 and 420 IPC for having stolen the motorcycle and putting a forged number plate and sentenced him to undergone 1 year rigorous imprisonment. He filed an appeal. The Appellate Court held that that part of the statement whereby he had admitted to the stealing of the motorcycle and changing the number plate could not be proved since that statement was made before the police but that part of the signed statement reflecting the recovery of the motorcycle could be proved. The Appellate Court further held that the testimonies of two prosecution witnesses i.e. the IO and the Head Constable about the factum of recovery of the motorcycle on the basis of the disclosure made by the petitioner proved beyond doubt. The Court ultimately found the petitioner guilty and convicted him under Section 411 IPC and sentenced him to undergo one year rigorous imprisonment.

3. Learned counsel has argued that firstly motorcycle was recovered from a open kotha and the owner of that kotha was not examined by the police. In my opinion, this argument has to fail. PW-4 had stated in his cross-examination that the kotha was an open kotha and anyone can park his motorcycle over there.

4. The second argument raised by learned counsel is that while putting case to the petitioner under Section 313 Cr.P.C the offence under Section 411 IPC was not mentioned. Even this argument has to fail. While Section 313 Cr.P.C was enacted for the purpose of enabling the accused personally to explain any circumstances appearing in the evidence against him, it was not necessary to inform him about the exact Section under which he may be found guilty.

5. Consequently, conviction awarded to the petitioner cannot be

faulted and sentenced imposed upon the petitioner cannot said to be excessive in any manner. Petition stands dismissed.

6. Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

26.3.2019
anuradha

(AJAY TEWARI)
JUDGE

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