

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

(1) CRA-S-2748-SB-2018 (O&M)

Date of Decision: 13.02.2020.

Jeetu @ Jeet

... Appellant

Versus

State of Haryana

... Respondent

(2) CRA-S-2835-SB-2018 (O&M)

Ravinder alias Rabba

... Appellant

Versus

State of Haryana

... Respondent

(3) CRA-S-3126-SB-2018 (O&M)

Monu

... Appellant

Versus

State of Haryana

... Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Ms. Alisha Soni, Advocate,
for the appellant(s) in CRA-S-2748-SB-2018 and
CRA-S-2835-SB-2018.

Mr. Deepender Singh, Advocate,
for the appellant in CRA-S-3126-SB-2018.

Mr. Vikrant Pamboo, DAG Haryana.

JITENDRA CHAUHAN.J.(ORAL)

This judgment shall dispose of afore-mentioned three
appeals arising out of the common judgment dated 14.05.2018 and
order dated 15.05.2018 passed by Additional Sessions Judge,

Faridabad, vide which the accused/appellants were convicted under Section 379-A IPC and sentenced to undergo RI for five years and to pay fine of Rs.25,000/- each and in case of default in payment of fine to further undergo SI for six months.

The brief facts of the case as noticed in the judgment passed by the trial Court in paragraph No. 2 are reproduced as under:-

“2. In brief, the present case was registered by the complainant Lallu to the effect that he is driver at dumper No.HR-38P-0556. When he reached near Sohna post, four persons came on the motorcycle and after opening the window of dumper gave hand blow on his mouth and forcibly snatched Rs.3600/- from him. It is further alleged that thereafter some passersby gathered there and caught hold one of the person, on inquiry he told his name as Jeetu son of Shishpal and he further disclosed name of his friends are Akash, Monu and Rabba. He prayed for initiating action against the culprits. On the complaint of the complainant, a case under Section 379-A, 34 Indian Penal Code was registered against the present culprits. Investigation was conducted by ASI Shirram. Site plan was prepared. Accused were arrested and their disclosure statements were recorded. After completion of investigation, challan was prepared and presented in the Court by the Station House Officer of the concerned Police Station.”

As the offence under Section 379-A IPC is exclusively triable by the Court of Session, the case was committed to the said Court.

Charge under Section 379-A IPC was framed against the accused to which the accused did not plead guilty and claimed trial.

In order to prove its case, the prosecution had examined PW-1 Anoj Kumar, Draftsman, PW-2 Lallu, PW-3 ASI Shriram, PW-4 Constable Anoop, PW-5 Head Constable Rajender and closed the evidence.

The statements of the accused under Section 313 Cr.P.C were recorded in which all the incriminating circumstances appearing in the prosecution evidence were put to the accused to which the accused denied and pleaded false implication.

No evidence in defence was led by the accused.

After appraisal of evidence, the learned trial court vide impugned judgment dated 14.05.2018 and order dated 15.05.2018, convicted and sentenced the accused, as narrated in the first paragraph of the judgment.

Feeling dissatisfied with the impugned judgment and order, afore-mentioned three appeals have been filed by accused/appellants.

It is contended by the learned counsel for the appellants that the complainant, star witness, in the original complaint had submitted that after opening the window and giving the push, Rs.3600/- were taken by the accused whereas, in the deposition before the Court, he has improved the version and introduced that quarrel had taken place with the rickshaw puller and complainant, Lallu along with rickshaw puller went to the Bus Stand but in the FIR, there is no

reference of the rickshaw puller.

It is further contended that as per the complainant, a number of persons had gathered on the spot, who had caught the accused/appellant Jeetu but none of them was examined as prosecution witness, therefore, the case of the prosecution cannot be relied upon at all.

On behalf of accused/appellants, Ravinder @ Rabba and Monu, it is contended that neither they were apprehended on the spot nor their identity was disclosed by the complainant. The case of the prosecution is that four persons came on motorcycle and opened the window of dumper and gave a slap on the face of the complainant. However, the complainant has failed to specify the act of each of the accused. It has not been stated as to who was driving the motorcycle and who had opened the window of the dumper.

On the other hand, it is contended by the learned State counsel that the impugned judgment and order have been rightly passed by the learned trial Court. Now-a-days, the snatching incidents are gaining the ground in the society. The prosecution has established the identity of the accused involved in the crime. PW-2, Lallu has specifically identified all the accused/appellants.

I have heard the learned counsel for the parties and have gone through the case file very carefully.

The law was set into motion by PW-2, Lallu who had stated that on 09.08.2017 when he reached near bridge of Ballbagarh in his

dumper No. HR-38-P-0556, four persons came on a motorcycle, gave a push on his face after opening the window of dumper, snatched Rs.3600/- from him and ran away. Thereafter, they quarrelled with one rickshaw puller. The complainant moved an application (Ex.P-2) to In-charge PP Bus Stand, Ballbagarh. Accused/appellant Jeetu was apprehended by the public on the spot. He got recorded his disclosure statement (Ex.P-7) to the effect that after the snatching, the loot money i.e. Rs.3600/- was handed over to accused Ravinder alias Rabba. The identity of accused/appellant Jeetu was very much proved by PW-2, Lallu duly corroborated by the testimony of PW-3, ASI Shriram, PW-4 Constable Anoop and PW-5 Head Constable Rajender. The prosecution has successfully proved its case so far as accused Jeetu is concerned. His conviction and sentence have been rightly recorded by the learned trial Court.

So far as accused/appellants, Monu and Ravinder @ Rabba are concerned, neither they were arrested on the spot, nor their names find mention in the FIR. Their names have come on record for the first time in the testimony of PW-2 Lallu. The prosecution has failed to prove on record as to how PW-2, Lallu came to know the names of the remaining two accused. The prosecution has tried to connect accused Monu with the present occurrence with the help of disclosure statement (Ex.P-13) in pursuance of which accused got recovered Rs.300/- from his house. The recovery was allegedly effected on 01.09.2017, after a gap of 20 days whereas, the occurrence relates to 09.08.2017. No

evidence has been brought on record by the prosecution that the currency notes allegedly recovered from appellant Monu were the same which were looted from the complainant. It suggests that the recovery of Rs.300/- has been planted so as to connect accused with the commission of crime. The recovery of motorcycle in pursuance of disclosure statement (Ex.P-9) made by accused Ravinder alias Rabba, does not advance the case of the prosecution any further inasmuch as the complainant had not stated the number of the motor cycle and it has also not been proved on record that it was the same motor cycle which was used in the commission of crime. Thus, the recovery of motor cycle at the instance of Ravinder alias Rabba and that of Rs.300/- from accused Monu are insufficient to connect the accused with the present occurrence. Their identity has not been established on record. The Court feels that the prosecution case is shrouded with mystery as regards the involvement of appellants Ravinder @ Rabba and Monu. Therefore, the prosecution has failed to prove its case so far as accused/appellants Ravinder @ Rabba and Monu are concerned.

In view of the above, the appeal (CRA-S-2748-SB-2018) filed by accused/appellant, Jeetu @ Jeet is dismissed. He is already in the custody. He shall serve the remaining part of his sentence.

The appeal (CRA-S-2835-SB-2018) filed by accused Ravinder @ Rabba and the appeal (CRA-S-3126-SB-2018) filed by accused Monu are hereby accepted. The judgment of their conviction and order of sentence are set aside. They are acquitted of the charges

framed against them. They are stated to be on bail. Their bail bonds and surety bonds stand discharged.

A photocopy of this judgment be placed on the files of connected cases.

13.02.2020.
SN

(JITENDRA CHAUHAN)
JUDGE

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