

**201 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRA-S-4080-SB-2016 (O&M)**

Date of Decision: 12.02.2020.

Shyam Sunder

... Appellant

Versus

State of Haryana

... Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Sukhdeep Singh, Advocate for
Mr. Parminder Singh, Advocate,
for the appellant.

Mr. Vikrant Pamboo, DAG Haryana.

JITENDRA CHAUHAN.J.(ORAL)

This appeal is directed against the judgment dated 21.10.2016 and order dated 29.10.2016 passed by Additional Sessions Judge, Kurukshetra, vide which the accused/appellant was convicted and sentenced as under:-

Offence	Sentence	Fine	In default
379-A IPC	RI for 5 years	Rs.25,000/-	RI for 6 months
356 IPC	RI for 1 year	--	--

However, both the sentences were ordered to run concurrently.

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. Case of prosecution in brief is that on 26.09.2015 at about 4.00 P.M., an information was received in the Police Station Sadar Thanesar to the

effect that two motorcycle born youths had snatched gold chain of one Gian Sharma from Sector-3, Kurukshetra. At this, H.C. Vinod Kumar along with C-1 Jai Bhagwan No.1078 reached at the spot where Gian Sharma presented an application Ex.P1 with the allegations that he is a resident of house No.452, Sector-3, Urban Estate, Kurukshetra. On 26.09.2015 at about 9.35 A.M., he was standing in the adjoining vacant plot where two young boys came on a motorcycle which was bearing Delhi number (DL). They were in the age group of 20-25 years. One of them who snatched the chain was wearing grey colour Tshirt and both of them had wheatish complexion. After snatching the gold chain worn by the complainant around his neck, they fled the spot on their motorcycle Make Pulsar colour black. A prayer was made for taking legal action against the culprits. Written intimation Ex.P13 was sent to the Police Station for registration of the FIR (Ex.P7) which eventually came to be registered under Sections 379-A and 356 IPC.”

After completion of investigation, challan/report under Section 173 Cr.P.C was presented in the Court. The case was committed to the Court of Session.

Charges under Sections 379-A and 356 IPC were 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 Gian Sharma, PW-2 HC Naresh, PW-3 ASI Mahi Pal, PW-4 ASI Vijender Singh, PW-5 HC Mahender Singh, PW-6 HC Vinod Kumar, PW-7 ASI Ranbir Singh and PW-8 Arun Kumar and closed the evidence.

The statement of the accused under Section 313 Cr.P.C was 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 21.10.2016 and order dated 29.10.2016, convicted and sentenced the accused, as narrated in the first paragraph of the judgment.

Feeling dissatisfied with the impugned judgment, the present appeal has been filed by accused/appellant Shyam Sunder.

It is contended by the learned counsel for the accused/appellant that the appellant had been arrested in FIR No.467 dated 26.09.2015 registered under Sections 379-A and 356 IPC, Police Station Sadar, Thanesar. While he was in custody in the said FIR, his disclosure statement was recorded and allegedly recovery of a gold chain was effected from his room after three months of the alleged snatching. It is further contended that similar disclosure statements were recorded in various FIRs and a large number of FIRs were registered against him out of which, in ten cases he has been acquitted. It is further contended that no identification parade was carried out. There is no investigation with regard to the pillion rider and the motorcycle allegedly was not owned by the appellant.

On the other hand, learned State counsel, contends that as many as twenty two FIRs are registered against the appellant.

I have heard the learned State counsel and have gone

through the case file very carefully.

It emerges from the record that while the appellant was in custody in FIR No.467 dated 26.09.2015, he was arrested in the present case and his disclosure statements were recorded. Considering the fact that no identification parade was carried out and coupled with the fact that no inquiry was conducted with regard to the involvement of second person, the appellant was riding the motorcycle. The other person has been acquitted by giving benefit of doubt that the appellant being a fatty person had carried out the snatching and the other person Rama Nand being slim could not have done it and neither the State nor the complainant chose to assail the judgment of acquittal. As per the record, said Rama nand is involved in identical cases. This creates doubt on the case of the prosecution.

In view of above, the present appeal is allowed. The judgment of conviction and order of sentence passed by the trial Court are set aside. The appellant is acquitted of the charges framed against him. The bail-bonds and surety bonds stand discharged.

12.02.2020.
SN

(JITENDRA CHAUHAN)
JUDGE

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