

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRM-A-742 of 2020 (O&M)

Date of Decision: 4<sup>th</sup> May, 2022

State of Haryana

Appellant

Versus

Sandeep @ Budha and others

Respondents

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Ms. Geeta Sharma, DAG, Haryana.

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**AVNEESH JHINGAN, J (Oral):**

This is an application under Section 378(4) Cr.P.C. for grant of leave to appeal against acquittal of the respondents under Sections 379-A and 346 IPC. The application is accompanied by an application for condoning the delay of 86 days.

The brief facts are that the respondents faced trial in case of FIR No. 206, dated 4.6.2017, under Sections 341, 379 read with Section 34 IPC was registered at the instance of Ajay. It was alleged that on 2.6.2017 when he along with his wife were travelling in a car at about 3.00 PM near village Saboli, three persons riding a motorcycle stopped the car, gave a butt blow of a country made pistol and snatched gold chain, ear rings, two mobile phones and cash of Rs.700/- to Rs.800/-. He claimed that the accused were within the age group of 25 to 30 years and he could identify if produced before him.

The accused were convicted under Section 411 IPC as the prosecution was able to prove the recovery of snatched property from the

accused. As per the evidence produced, it was proved that snatched gold ornaments were recovered, however, they had thrown away the mobiles and spent the cash snatched. The accused were acquitted under Sections 379-A and 346 IPC. While acquitting, the trial court considered that there was major variation between the contents of the complaint dated 4.6.2017 and deposition of the complainant. As per the complaint, dated 4.6.2017, the incident had taken place on 2.6.2017. The complainant stated that he had informed the police instantly, the FIR was of 4.6.2017, further, in the complaint the incident was stated to have occurred “yesterday”. Similar was variation in the deposition of the eye-witness (PW2). Secondly, as per the allegations, the nose of the complainant was hit by accused with pistol butt resulting into fracture but no medical evidence was produced. Thirdly, the complainant claimed that he could recognise the accused but no test identification parade was conducted.

Learned counsel for the State submits that the trial court erred in acquitting the respondents under Sections 379-A IPC as the snatched gold articles were recovered from them.

The accused were convicted under Section 411 IPC on the basis that snatched gold articles were recovered from them. The recovery of snatched articles in itself will not prove the case of the prosecution under Section 379-A IPC. It is trite law that the prosecution has to prove its case and the accused even if able to create a doubt in the story put forth by the prosecution, is let free.

No case is made out for grant of leave to appeal as no legal or factual error, much less perversity, has been pointed out in the impugned

order. The conclusion arrived at by the trial court is plausible reason.

The application is dismissed.

Since the application for grant of leave to appeal is dismissed on merits, the application for condonation of delay is also dismissed.

[AVNEESH JHINGAN]

JUDGE

4<sup>th</sup> May, 2022  
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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable         | : | Yes / No |