

In the High Court of Punjab and Haryana at Chandigarh

CRA-S-3383 of 2019 (O&M)
Reserved on: 26.7.2022
Date of Decision: 10.8.2022

Pardeep Singh @ DeepAppellant

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Tapish Kumar Gupta, Advocate
for the appellant.

Mr. M.S.Nagra, AAG, Punjab.

SURESHWAR THAKUR, J.

1. The instant appeal is directed against the impugned verdict, as made on 17.9.2019, by the learned Additional Sessions Judge, Jalandhar, upon Sessions Case No. CS 345/2018. Through the verdict (supra), the learned trial Judge concerned, convicted the accused for a charge drawn against him, for the offences punishable under Section 379-B, and, under Section 411 of the IPC. Moreover, vide a separate sentencing order, drawn on 19.3.2019, the learned trial Court, proceeded to impose the hereinafter extracted sentence(s) of imprisonment, and, also sentences of fine, upon the convict-accused.

<i>Sr. No.</i>	<i>Offence</i>	<i>Sentence</i>
1.	379-B IPC	<i>To undergo rigorous imprisonment for a period of 5 years and to pay a fine of Rs. 10,000/- in default of which to further undergo simple imprisonment for 3 months.</i>
2.	411 of IPC	<i>To undergo rigorous imprisonment for a period of 1 year and to pay a fine of Rs. 1,000/- in default of which to further undergo simple imprisonment for 15 days.</i>

the appeal FIR, to which Ex. P-3 is assigned, wherein it is alleged that on 26.6.2018, complainant Sanjanpreet Kaur has moved an application before the police officials of police station Division No. 4, Jalandhar to the effect that on 26.2.2018, she along with her mother-in-law was returning from Bazar to their home on rickshaw. It has further been alleged that when she was alighting from the richshaw, one person came on motorcycle and snatched her purse containing Rs. 6000/- and ATM card. Upon this complaint, the present case was registered. The investigation was initiated. It has been further alleged that the present accused was arrested by the police in case FIR No. 57 dated 19.3.2018, under Sections 379-B, 411 of the Indian Penal Code, registered at Police Station Division No. 4, Jalandhar and during interrogation, the accused Pardeep Singh has suffered the disclosure statement with regard to commission of offence in the present case and has got recovered Rs. 150/- out of the snatched currency notes in pursuance of his confessional/disclosure statement from the PUDA building, situated in front of Punjab Kesri Newspaper, which were taken into police possession vide separate recovery memo. Thereafter, after completion of investigation and after presentation of challan, the present accused was put to trial for the aforesaid offences under Section 379-B, 411 of the Indian Penal Code.

3. After completing the investigations into the petition FIR, the investigating officer concerned, proceeded to institute a report under Section 173 of the Cr.P.C., before the learned trial Court concerned.

4. Thereafter, the learned trial Court, proceeded to draw charges against the accused, for offences punishable under Sections 379-B, 411 of the IPC.

5. The learned Additional Sessions Judge, concerned, though put the charges to the accused, but he pleaded not guilty, and, claimed trial. Consequently, he entered, upon trial of the charges qua FIR (supra), drawn against the accused, and, after completion of recording of the depositions of the prosecution witnesses, he also drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused claimed false implication, and, pleaded innocence. Though, the accused claimed the granting of leave to him, for leading defence evidence, but the above granted leave never became availed by him. Therefore, as above stated, the learned Additional Sessions Judge, Jalandhar, drew the above verdict of conviction, and, also drew the consequent therewith sentence(s) (supra), against the accused.

6. The identity of the appellant was unknown to the complainant, but after the appellant becoming arrested by the police, he became identified at the police station, by the informant, and, in respect whereof identification memos Ex. P-7, and, Ex.P-8 became prepared.

7. Moreover, through a disclosure statement, as embodied in Ex. P-9, the recovery of snatched property, became effected. Through a recovery memo, to which Ex. P-10, is assigned, currency notes of denomination of Rs. 100/-, and, currency note of denomination of Rs. 50/- became recovered from the relevant place of theirs hiding or camouflaging, hence by the accused. The above made disclosure statement, as, made by the accused, was not made, upon his becoming arrested in the appeal FIR, but rather was made upon his arrest being caused in another FIR bearing No. 57 of 19.3.2018. Though the identification of the accused in Court, by both PW-2, and, PW-5, became preceded by his identification being made, at the police station, and, in respect whereof memos Ex. P-7, and, Ex.P-8

became respectively prepared, but neither the identification of the accused, in Court, by both the above, nor the identification made by the above PWs, in the police station, rather holds, the apt evidentiary vigour. The reason for making the above conclusion, becomes embodied in the factum, that the investigating officer concerned, as apparent on a reading of his cross-examination, did not join, any independent witness, at the time when he drew the above memos. Moreover, the further reason for recording the above inference, emanates from PW-1, admitting to a suggestion, put to him by the learned defence counsel, that the complainant while recording her statement, hers omitting to mention any number, colour or make of the alleged motorcycle, nor hers disclosing about the physique of the alleged offender. If so, and, since the above suggestions, as also meted, to PW-2, and, PW-5, in their respective cross-examinations rather also became admitted, by both, thereupon it was not possible for both PW-2, and, PW-5, to at the police station, hence identify the accused, to be the offender, nor also the respectively prepared memos in respect thereof, and, as become respectively embodied in Ex. P-7, and, Ex.P-8, rather hold any evidentiary tenacity.

8. In sequel, the police has not been able to lead unflinching evidence for establishing the prime factum of the accused being the offender.

9. Even though the prosecution relies, upon, the making of a disclosure statement Ex. P-9 by the accused, in sequel whereof, through recovery memo Ex. P-10, the relevant incriminatory seizure, become recovered at the instance of the accused, but also the above, does not sustain the charge, as PW-1, in his cross-examination, has admitted, that at the time of drawing of the above memos, he did not take to join any independent

witness, resultantly, with the consequent effect that the above memo(s) become percolated with deep suspicion. Moreover, with PW-1 in his cross-examination, rather admitting that the incriminatory seizure becoming not sealed in a cloth parcel, rather becoming enclosed in an envelope, besides also his admitting that in the recovery memos, there is no mentioning of numbers of currency notes, thereupon it appears that even if assumingly, the recovery of the incriminatory seizure was made, at the instance of the accused, but it is still for the reason (supra), rather a tainted, and, invented recovery, and, nor on its anvil, the charge can become sustained against the convict-appellant herein.

10. For the reasons (supra), there is merit in the appeal, and, the same is hereby allowed. The impugned judgment convicting, and, sentencing the appellant, and, as recorded by the learned Additional Sessions Judge, Jalandhar, is quashed, and, set aside. Appellant Pardeep Singh @ Deep is acquitted of the charges framed against him. The fine amount, if any, deposited by him, be, in accordance with law, refunded to him. The personal, and, surety bonds of the accused shall stand forthwith cancelled, and, discharged. The case property be dealt with, in accordance with law, after the expiry of the period of limitation for filing of an appeal. The appellant, if in custody, and, if not required in any other case, be forthwith set at liberty. Release warrants be prepared accordingly.

11. Records be sent down forthwith.

(SURESHWAR THAKUR)
JUDGE

August 10, 2022
Gurpreet

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