

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 111 of 2024

Arising Out of PS. Case No.-3 Year-2006 Thana- BIBHUTIPUR District- Samastipur

Hemant Kumar S/O Sri Kusheshwar Mahto R/O Village- Dumaria, Ps.-
Bibhutipur, Dist.- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr Ajay Kumar Thakur, Ms Vaishnavi Singh, Mr Purushottam Kumar, Advocates
For the Respondent/s	:	Ms Madhuri Lata, APP

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 01-08-2024

Being aggrieved with the judgment dated 15.12.2023 passed by Additional Sessions Judge II, Rosera, Samastipur in Cr Appeal No 47 of 2019 whereby the learned Additional Sessions Judge II rejected the appeal preferred by the petitioner and confirmed the judgment passed by learned SDJM, Rosera in Trial No 1015 of 2019/GR No 7 of 2006 arising out of Bibhutipur PS Case No 3 of 2006 whereby the learned SDJM convicted the petitioner for the offence punishable under Section 414 of IPC and sentenced him to undergo rigorous imprisonment for three years and fine of Rs 5,000/-.



2 According to the case of the prosecution, PW 1 Avinash Kumar Singh, Officer-in-charge of Bibhutipur PS on 04.01.2006, on the basis of information, searched the house of the petitioner. On being searched, one Hero Honda motorcycle bearing Registration No BR9C/5795 has been recovered from his possession. One photostat copy of the registration certificate was shown by the petitioner. According to the said certificate, owner of the said vehicle is shown as Dharmendra Deo, resident of Village – Mabbi, PS – Rosera. It was informed by the petitioner that the said motorcycle was purchased by him from one Ashok Singh who initially purchased the said vehicle from the registered owner of the vehicle, namely, Dharmendra Deo. However, due to some reasons, name of the petitioner as well as Ashok Singh could not be transferred in the registration certificate. It was the further case of the prosecution that the said registration certificate was enquired from DTO, Begusarai and it was found forged.

3 After completion of investigation, chargesheet under Sections 414, 467, 468, 469, 471 and 472 of IPC has been filed. Charges were framed by the learned SDJM. After conclusion of trial, the learned SDJM acquitted the petitioner for the offence punishable under Sections 467, 468, 469, 471 and 472 of IPC. However, the learned trial Court convicted the petitioner for the



offence punishable under Section 414 of IPC and, as mentioned earlier, which has also been affirmed by the learned appellate Court by the impugned judgment. Hence, this revision petition.

4 It is submitted by the learned counsel for the petitioner that without any sufficient evidence available on record, both the trial Court as well as the learned appellate Court convicted/affirmed the judgment of conviction for the offence punishable under Section 414 of IPC. According to the counsel, there is no evidence available on record to establish the fact that the seized vehicle from the petitioner was the stolen vehicle. It is further submitted that Dharmendra Deo and Ashok Singh were not examined before the trial Court nor concerned DTO, Begusarai who conducted the enquiry has been examined. Since the prosecution has not been able to establish the fact that the seized vehicle was the stolen vehicle then the offence under Section 414 of IPC is not sustainable. Therefore, the conviction of the petitioner for the said offence is also not sustainable.

5 Learned counsel for the respondent-State supported the judgment and submits that considering the entire evidence available on record, both the Courts below rightly convicted the petitioner.



6 Heard both the learned counsel for the parties, perused the evidence led by the prosecution in the trial Court and also other materials available on record.

7 Before the trial Court, prosecution has examined as many as nine witnesses. PW 1 Avinash Kumar Singh is the informant of the case who seized the vehicle from the house of the petitioner. PW2 is Hav Shiv Awtar Prasad, PW 3 is Ashok Kumar Mishra and PW 4 Niranjan Prasad are also the members of the police team who conducted the raid on the date of incident. All of the above have supported the case of the prosecution and stated that the vehicle bearing Registration No BR9C/5795 has been seized from the house of the petitioner. Though witnesses of seizure list, i e, PWs 6 and 7 Rohit Kumar and Sitaram Mahto have not supported the case of the prosecution but from the statement of PWs 1, 2 and 3, namely, Avinash Kumar Singh, Hav Shiv Awtar Prasad and Ashok Kumr Mishra, the prosecution is able to establish the fact that Vehicle No BR9C/5795 has been seized from the possession of the petitioner.

8 The next question for consideration would be whether the prosecution is able to establish the fact that the said seized vehicle was the stolen property?



9 According to the case of the prosecution, at the time of raid, the petitioner showed photostat copy of the registration certificate of the said vehicle and according to the registration certificate, registered owner of the said vehicle was one Dharmendra Deo, resident of village -Mabbi, PS – Rosera. It was the further case of the prosecution that according to the information given by the petitioner, initially the said vehicle was purchased by Ashok Singh, from Dharmendra Deo and subsequently petitioner has purchased the vehicle from Ashok Singh but the prosecution, for the reasons best known to it, has not recorded the statements of said Dharmendra Deo as well as Ashok Singh under Section 161 of Cr P C nor cited them as witness.

10 According to the case of the prosecution, the said registration certificate has also been enquired by the DTO, Begusarai and it was found by the DTO that it is a fake certificate but the prosecution has also not examined the concerned DTO who conducted the enquiry.

11 From the entire evidence adduced by the prosecution, as discussed above, though it is established that the said vehicle has been recovered from the possession of the petitioner but no evidence is available on record which establishes that the vehicle was stolen vehicle and the petitioner, knowing this fact, has taken



the custody of the said vehicle. Therefore, for convicting the petitioner for the offence punishable under Section 414 of IPC, the main ingredients of Section 414 is missing in this case.

12 Thus, conviction of the petitioner for the offence punishable under Section 414 of IPC is not sustainable.

13 Resultantly, this revision petition is allowed and the judgments and orders of both the Courts below are set aside.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.08.2024
Transmission Date	08.08.2024

