

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-2756-2023(O&M)

Date of Decision:-16.02.2024

Ankush Puri.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Manbir Singh Batth, Advocate for the Petitioner.

Ms. Amrita Garg, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioner-accused against the judgment dated 08.11.2023 passed by the Sessions Judge, Ferozepur whereby the judgment of conviction and order of sentence dated 22.12.2022 passed by Judicial Magistrate Ist Class, Ferozepur has been upheld.

2. The brief facts of the case are that the investigating agency received a secret information that Dilbagh Singh @ Lucky and Ankush Puri were habitual of selling stolen motor cycles and would be waiting at Dhobi Ghat, Ferozepur Cantt. for selling the same. If a raid was conducted they could be apprehended. Based on this information, an FIR came to be registered. A motor cycle bearing engine number HA10EJDH05319 was found parked on which Dilbagh Singh @ Lucky was seated and another motor cycle bearing engine number 71759 was found parked on which

Ankush Puri was seated. They could not produce any documents regarding their ownership and admitted that the said motor cycles were stolen. The recovered motor cycles were taken into possession and the accused were formally arrested.

On conclusion of the investigation the report under Section 173(2) Cr.PC was submitted against both the arrested accused. Charge was framed under Section 411 IPC.

3. On conclusion of the Trial, the accused came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, Ferozepur vide judgment of conviction dated 22.12.2022 as under:-

Sr.No.	Offence under Sections	Imprisonment	Fine	In default of fine imprisonment
1.	Section 411 IPC	06 Months each	-	-

4. Both the convicted accused preferred an appeal bearing Criminal Appeal No.04 of 21.01.2023 before the Court of Sessions Judge, Ferozepur. While convict Dilbagh Singh @ Lucky was acquitted, conviction of the petitioner Ankush Puri came to be upheld by the court of Sessions Judge, Ferozepur vide judgment dated 08.11.2023.

5. The aforementioned judgments are under challenge in the present revision petition.

6. The Counsel for the petitioner contends that the judgment of conviction is illegal and perverse. Material admissible evidence had been left out of consideration and the conviction has been recorded on inferences. Allegations against the petitioner could not be believed as no independent witness had been joined by the prosecution agency at the time of recovery of the motor cycles. There was no evidence which proves that the motor cycle was stolen by the petitioner. Therefore the link evidence was missing. In

fact PW-5 Munish Kumar categorically stated in his cross examination that

he did not know who had stolen his motor cycle. The offence under Section 411 IPC was not made out as the ingredients of the same were not fulfilled. As the commission of the offence was not established in accordance with law the judgments of conviction were liable to be set aside and the petitioner ought to be acquitted of the charges framed against him.

7. The Counsel for the State has placed on record the custody certificate of the petitioner dated 16.02.2024 as per which he has undergone a custody period of 03 months and 22 days. He contends that the offence has been established beyond reasonable doubt. There were no significant contradictions between the statements of the witnesses and, therefore, the present petition was liable to be dismissed.

8. I have heard learned Counsel for the parties.

9. A perusal of the evidence on record particularly the statement of PW-5 Manish Kumar would show that the motor cycle in question bearing No.PB-29K-8855 was in the ownership of the said Manish Kumar which had been stolen on 10.10.2015 regarding which a report was made to the SHO Talwandi Bhai. Later the motor cycle came to be recovered by the officials of Police Station Cantt, Ferozepur in March 2016 when it was found to be in possession of the petitioner. Therefore, clearly, the offence under Section 411 IPC stands established against the petitioner.

10. In view of the above discussion, I find no ground to interfere with the well reasoned judgments of conviction and order of sentence recorded by the Judicial Magistrate Ist Class, Ferozepur which have been upheld by Sessions Judge, Ferozepur. Resultantly, the revision petition stands dismissed.

11. As regards the imposition of sentence, it may be pointed out that the applicant is a young boy and a first time offender. He has already

undergone total custody of 03 months and 22 days (including remission) out of his substantive sentence of 06 months. Therefore, keeping in view the clean antecedents of the petitioner, as also the fact that he had undergone a substantial period of imprisonment, while upholding his conviction, I deem it appropriate to reduce the sentence of the petitioner to the period already undergone by him.

12. The revision petition stand disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

February 16, 2024
Vinay

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